

**Scharf-Norton Center for Constitutional Litigation at the  
GOLDWATER INSTITUTE**

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**IN THE SUPERIOR COURT OF ARIZONA  
IN AND FOR THE COUNTY OF PIMA**

RICHARD RODGERS; SHELBY  
MAGNUSON-HAWKINS; and DAVID  
PRESTON,

Plaintiffs,

vs.

CHARLES H. HUCKELBERRY, in his official  
capacity as County Administrator of Pima  
County; SHARON BRONSON, RAY  
CARROLL, RICHARD ELIAS, ALLYSON  
MILLER, and RAMÓN VALADEZ, in their  
official capacities as members of the Pima  
County Board of Supervisors; PIMA COUNTY,  
a political subdivision of the State of Arizona,

Defendants.

**Case No.:** C20161761

**PLAINTIFFS' COMBINED  
CONTROVERTING STATEMENT OF  
FACTS AND SEPARATE STATEMENT  
OF FACTS**

(Assigned to the Honorable  
Catherine Woods)

## **CONTROVERTING STATEMENT OF FACTS**

Plaintiffs respond to Defendants' Statement of Facts in Support of Second Motion for Partial Summary Judgment Regarding Counts 3 and 4 ("DSOF") as follows (each numbered paragraph responds to the corresponding numbered paragraph in Defendants' Statement of Facts):

1. Undisputed.

2. Undisputed.

3. Undisputed.

4. Undisputed.

5. Undisputed that the County awarded the contracts without complying with the qualifications-based solicitation requirements of A.R.S. Title 34 and that Defendant Huckleberry justified the lack of compliance as recited in the Memo from C.H. Huckelberry to Board of Supervisors, Jan. 19, 2016 ("Huckelberry Memo"), attached as Ex. 4.

6. Undisputed.

7. Undisputed.

8. Undisputed.

9. Undisputed.

10. Undisputed.

11. Undisputed that World View representatives stated that the facility had to be operating by the end of 2016. However, that statement was not made "throughout" the 2015 discussions. Instead, it occurred first in September or October 2015. Barker Depo attached as Exhibit 1 at 18:21-23; Huckelberry Depo attached as Exhibit 2 at 75:17-24.

12. Undisputed.

13. Undisputed.

14. Undisputed.

15. Undisputed.

16. Undisputed that Hammond "probably" suggested Swaim to Huckelberry. However, it

was Huckelberry who recommended that Swaim provide the services. Memo from C.H. Huckelberry to John Moffatt, Aug. 12, 2015 attached as Ex. 3 at 1; Huckelberry Memo, Ex. 4 at 7, 11/2/15 Memorandum attached as Ex. 5 at 1; Ex. 2 at 69:20-23. Also, the services were not provided to World View, but to the County, which owned and owns the property in question. Ex. 2 at 108:19-109-12.

17. Undisputed

18. Undisputed.

19. Undisputed that Swaim suggested Barker to Huckelberry and World View. It is unclear what Defendants mean by the term “already,” however. Barker only became involved in the project in August 2015. Ex. 1 at 17:18-19:23.

20. Undisputed.

21. Undisputed.

22. Undisputed.

23. Undisputed.

24. Undisputed.

25. Undisputed.

26. Undisputed.

27. Undisputed.

28. Undisputed.

29. Undisputed.

30. Undisputed.

31. Undisputed.

32. Undisputed.

33. Undisputed.

34. Undisputed.

35. Undisputed.

36. Undisputed.

37. Undisputed.

38. Undisputed that County officials were of the belief that failure to meet World View's timeline would have caused World View to locate in another state. However, there is insufficient evidence in the record to state definitively whether that belief was correct. Also, whether World View locating elsewhere qualifies as "'considerable' consequences *to the County*" is a legal conclusion which Plaintiffs dispute.

39. Undisputed.

40. Undisputed.

41. Undisputed.

42. Undisputed.

43. Undisputed.

44. Undisputed.

45. Undisputed.

46. Undisputed.

47. Undisputed.

48. Undisputed.

49. Undisputed.

50. Undisputed.

51. Undisputed.

52. Undisputed.

53. Undisputed.

54. Undisputed.

55. Undisputed.

56. Undisputed.

57. Undisputed.

58. Undisputed.



59. Undisputed.

60. Undisputed.

61. Undisputed.

### **PLAINTIFFS' SEPARATE STATEMENT OF FACTS**

Plaintiffs submit this Separate Statement of Facts ("PSOF") in support of Plaintiffs' Motion for Summary Judgment on Counts 3 and 4.

1. Some time prior to August 12, 2015, Huckelberry recommended that World View work with Swaim for purposes of creating initial plans for the World View facilities. Ex. 4 at 5; Ex. 3 at 1 ("I suggested World View should ... work with Architect Phil Swaim.").

2. Swaim recommended that World View and the County consult with Barker as a contractor on the project. Moffatt depo, attached as Exhibit 6 at 17:9-18:5.

3. Huckelberry stated in his January 2016 report to the Board of Supervisors that six months or so previously he had "selected Swaim ... as the Lead Architect ... [and] Barker Morrissey" as the contractor for the project. Ex. 4 at 7.

4. Huckelberry stated on November 2, 2015, "I suggested [World View] work with Swaim and Associates Architects and Barker Morrissey Contracting ... ." Ex. 5 at 1.

5. In his formal proposal to World View on October 23, 2015, Huckelberry recommended that Swaim be the project architect and Barker-Morrissey be the contractor. Ex. 2 at 69:20-23.

6. Neither Barker-Morrissey nor Swaim has constructed a balloon launch pad or a balloon manufacturing facility before. Ex. 1 at 6:17-20; Swaim depo, attached as Exhibit 7 at 17:2-3; 18:7-9.

7. Barker-Morrissey had not built office buildings for the County before. Ex. 1 at 6:14-16.

8. Brian Barker did not know why Barker-Morrissey was chosen to participate in the meetings that began in August 2015. *Id.* at 39:21-23.

9. There are other architects and contractors in Pima County capable of building the kind of building involved in the World View project. Ex. 6 at 57:14-18.

10. The first meeting between Barker-Morrissey, Swaim, the County, and World View

occurred on August 20, 2015. Ex. 6 at 35:17-36:4, 34:3-18

11. The participants at the August 20, 2015 meeting discussed the size and character of the facilities World View desired. Moffatt's Notes from meeting attached as Exhibit 8.

12. At the August 20, 2015 meeting, the County asked Swaim and Barker-Morrissey to begin the process of preparing initial plans, specifications, and estimates for the World View facility. Ex. 6 at 34:19-35:8.

13. No architect or contractor other than Swaim and Barker-Morrissey was invited to the August 20, 2015 meeting. Ex. 6 at 36:22-37:2; Ex. 1 at 28:22-29:2.

14. Between August 2015 and January 2016, the County held multiple in-person meetings—between five and ten—as well as e-mail or telephone discussions with Swaim and Barker Morrissey. Ex. 7 at 42:13-17.

15. At these meetings, representatives of the County, Swaim, Barker-Morrissey, and World View designed plans, developed construction budgets, and otherwise planned the launch pad and other World View facilities. *Id.* at 42:18-43:5.

16. The County signed no contracts with Swaim or Barker Morrissey prior to February 2016. *Id.* at 53:14-54:2; Ex. 1 at 42:9-12.

17. The County did not pay, and has no contractual obligation to pay, Swaim or Barker Morrissey for the services it rendered between August 2015 and January 2016. Ex. 7 at 56:19-23.

18. The participants in the project were not informed in August 2015 of World View's November 2016 deadline until September or October of 2015. Ex. 1 at 18:21-23; Ex. 2 at 75:17-24.

19. At no time between August 2015 and January 2016 were any other architect or contractor invited to participate in meetings or discussions regarding the World View project, or given any opportunity to provide planning or design services or to participate in any way on the project. Moffatt depo: 40:14-21; Ex. 2 at 30:11-16, 62:22-24, 75:3-6, 96:22-97:1; Ex. 7 at 52:23-53:13; Ex. 1 at 62:12-14.

20. The only time Moffatt consulted any other architect or contractor was when he casually

asked some others whether the plans Swaim and Barker Morrissey had put together were realistic. Ex. 6 at 60:5-22.

21. Huckelberry could have suggested a different architect or contractor, but did not consider doing so and would not have done so if he had considered it, because the project was being tailor-made for World View. Ex. 2 at 30:11-16, 99:12-22, 109:7-12.

22. Barker-Morrissey provided between five and ten construction estimates, which would have cost at least \$2,000 each. Ex. 1 at 49:15-23, 50:22-51:3. Barker-Morrissey prepared estimates or revised estimates for the World View project on, *at least*, August 25, 2015 (attached as Exhibit 9), September 2, 2015 (attached as Exhibit 10), and November 23, 2015 (attached as Exhibit 11).

23. Between August 2015 and January 2016, Swaim continually revised the plans to reflect World View's needs as the project developed; it also dedicated an employee's working hours to the project, in addition to Mr. Swaim's own time. Ex. 7 at 25:16-26:2, 34:15-35:6, 36:7-19.

24. On December 23, 2015, World View officially chose the Pima County proposal and notified the County of its need to have the facility completed by November 2016. Dec. 23, 2015 Letter from World View attached as Exhibit 12. It also stated, "[w]e agree that Swaim Associates will be the architect and Barker Morrissey the builder." *Id.* at 1.

25. No written request for an emergency or limited-competition procurement was prepared prior to January 2016, nor was a limited procurement process for the World View project created prior to January 2016. Ex. 2 at 26:6-17, 30:5-9.

26. Swaim and Barker Morrissey provided their services for free because they hoped to be hired once the project was approved. Ex. 1 at 46:19-24, 53:7-11.

27. Moffatt testified that it was "not unusual" for firms to do this as "part of their marketing." Ex. 6 at 76:20-77:4.

28. Architect Phil Swaim believed that it would have been exceptionally difficult in January 2016 for the County to have obtained the services of an architect other than Swaim or a contractor other than Barker-Morrissey and complete the World View project on time, because "[t]he contractor

wouldn't have all the prior knowledge of the—of this very specific project,” Ex. 7 at 38:24-40:12.

29. Contractor Brian Barker believed that it would have been exceptionally difficult in January 2016 for the County to have obtained the services of a contractor other than Barker-Morrissey and complete the World View project on time, because the new contractor would have had to redo all the work Barker-Morrissey had already done by then. Ex. 1 at 61:21-62:2; 63:17-64:4.

30. On November 2, 2015, Huckelberry instructed his deputy to ask County staff to “make recommendations regarding a possible contract with Swaim.” Ex. 5 at 2.

31. Some time between December 23, 2015 and January 19, 2016, Huckelberry drafted a report to the Board of Supervisors recommending approval of the World View project and recommending that Swaim be chosen as the architect and Barker-Morrissey as the contractor. This draft contained no reference to World View's November 2016 deadline. Jan. 19, 2016 Draft Report attached as Exhibit 13.

32. In this draft report, Huckelberry wrote, “During the recruitment process to offer World View facilities in Pima County, it was necessary to quantify their exact architectural program and space needs, as well as provide them with a reliable cost estimate for building construction. *The County initially selected Swaim Associates Ltd Architects AIA, with Mr. Phil Swaim as the Lead Architect, and Barker Morrissey Contracting with Mr. Riley Rasmussen as the Project Manager. These two firms provided services* without compensation to provide the necessary architectural programming and design and cost models to determine the reliable size configuration and cost of constructing World View's headquarters in Pima County. *Because of their prior involvement and detailed understanding of World View requirements,* the County will now select Swaim Associatesas [sic] the Project Architect and Barker Morrissey Contracting as the Contractor using discuss selection/contracting method (to be completed by the Procurement Director with the appropriate justification for doing so).” *Id.* at 9 (emphasis added). The underlined portion was highlighted in the original, because Huckelberry intended to “ask[] the procurement director to, you know, ensure or use the correct terminology with regard to the project selection methodologies and contracting.” Ex. 2 at 92:12-20.

33. In the final version of the report, submitted to the Board in January 2016, this passage is four paragraphs long, and includes a reference to World View's November 2016 deadline and stating that "due to the compressed timeframe for design and construction of this facility, compliance with the full provisions of the statute is impracticable and contrary to the public interest. Jan. 19, 2016 Report attached as Exhibit 14 at 7–8.

34. After January 2016, the plans for the World View facility were modified but "the basic organization didn't change." Ex. 7 at 60:25-61:5.

35. On May 4, 2016, Huckelberry sent a memorandum to the Board of Supervisors in which he stated that even if the County had engaged in any "competitive process" for procuring architecture and contractor services for the World View project, the County would have selected Swaim and Barker-Morrissey "given their prior uncompensated work helping to define the size, scope and extent of the facility required by World View." This memo made no reference to World View's November 2016 deadline. May 4, 2016 Memorandum to Board of Supervisors attached as Exhibit 15.

36. Huckelberry stated that, the County would have selected Swaim and Barker because of "the demonstrated knowledge they [had] on [the] particular project. Understanding the scope and the requirements and given their extensive knowledge, more than likely" they would have been selected for the project in January 2016 if the County had complied with Title 34 requirements. Ex. 2 at 95:14-20.

37. The World View facility is owned by the County. *Id.* at 108:19-22.

38. The County made no effort at any time to determine whether another contractor or architect could have completed the World View facility on time. Huckelberry did not attempt to contact any other architecture firms to determine whether they could have completed the project on time, but simply assumed they could not. *Id.* at 87:20-23, 88:15-89:5; Ex. 6 at 59:22-60:4.

39. The County made no attempt to determine what amount of competition would have been practicable under the circumstances. Ex. 2 at 89:6-10.

40. After being told that World View had a deadline of November 2016 for completion of the project, County staff did not attempt to resist or negotiate about that deadline. *Id.* at 87:8-19; Ex. 6 at

54:20-55:9. Huckelberry viewed his efforts as a matter of “meeting [World View’s] deadline as a condition of economic expansion.” Ex. 2 at 37:6-10.

41. Asked what would have happened if the County had informed World View that the November 2016 deadline could not be met, Moffatt testified “Well, our speculation was because they had this hard date that—that we would have not had the project. We would not have been successful.” *Id.* at 59:13-20.

**DATED: May 29, 2018**

Respectfully submitted,

/s/ Timothy Sandefur  
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*Attorneys for Plaintiffs*

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/s/ Kris Schlott  
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## **Exhibit 1**

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA

IN AND FOR THE COUNTY OF PIMA

RICHARD RODGERS; SHELBY	)	
MAGNUSON-HAWKINS; and DAVID	)	
PRESTON,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	No. C20161761
	)	
CHARLES H. HUCKELBERRY, in his	)	
official capacity as County	)	
Administrator of Pima County;	)	
SHARON BRONSON, RAY CARROLL,	)	
RICHARD ELIAS, ALLYSON MILLER,	)	
and RAMON VALADEZ, in their	)	
official capacities as members	)	
of the Pima County Board of	)	
Supervisors; PIMA COUNTY, a	)	
political subdivision of the	)	
State of Arizona,	)	
	)	
Defendants.	)	
_____	)	

DEPOSITION OF BRIAN BARKER

Tucson, Arizona  
April 2, 2018  
8:50 a.m.

REPORTED BY:  
Thomas A. Woppert, RPR  
AZ CCR No. 50476

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KATHY FINK & ASSOCIATES  
2819 East 22nd Street  
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<p style="text-align: right;">Page 4</p> <p>1                   BRIAN BARKER, 2 called as a witness herein, having been first duly sworn, 3 was examined and testified as follows: 4 5                   E X A M I N A T I O N 6 7 BY MR. SANDEFUR: 8       <b>Q. Could you state your name?</b> 9       A. Brian Barker. 10       <b>Q. And, Mr. Barker, what's your -- what's your</b> 11 <b>job?</b> 12       A. I am president of Barker Contracting. 13       <b>Q. And have you ever been deposed before?</b> 14       A. I have not. 15       <b>Q. Okay. So the way it's going to work is it's --</b> 16 <b>I'm going to ask you a bunch of questions, including some</b> 17 <b>questions about some documents here, and the court</b> 18 <b>reporter, of course, is going to record the things that</b> 19 <b>you say. And so because he's writing it down, it's</b> 20 <b>important that we try not to talk over each other. And</b> 21 <b>instead of nodding or shaking our heads or saying uh-huh</b> 22 <b>or huh-uh, try and say yes and no so that he can write it</b> 23 <b>down and that sort of thing.</b> 24       I also, as you can probably already tell, tend 25 sometimes to talk rather fast, and so he might have to ask</p>	<p style="text-align: right;">Page 6</p> <p>1       <b>Q. Would it be more than 10?</b> 2       A. It would be close. I'm not sure. 3       <b>Q. Is the World View project different in any way</b> 4 <b>from the kinds of projects that you've worked on for the</b> 5 <b>county before?</b> 6       A. Yes. 7       <b>Q. How is that?</b> 8       A. Larger -- primarily larger and different 9 procurement method. 10       <b>Q. Now, when you say larger, can you say how much</b> 11 <b>larger it is than -- relative to other projects you've</b> 12 <b>worked on for the county?</b> 13       A. Much larger. 14       <b>Q. So have you built buildings -- office buildings</b> 15 <b>for the county before?</b> 16       A. No. 17       <b>Q. Have you built a balloon launching pad before?</b> 18       A. No. 19       <b>Q. What about a balloon construction facility?</b> 20       A. No. 21       <b>Q. And in those other projects, you mentioned</b> 22 <b>before that one of the things that's unusual about this</b> 23 <b>project is the procurement method. In the other projects</b> 24 <b>that you worked on for the county, was that done through a</b> 25 <b>competitive bidding process?</b></p>
<p style="text-align: right;">Page 5</p> <p>1       me to slow down or you to slow down in our answers so that 2 he can write it down accurately and that sort of thing. 3       And, of course, you can ask for a break any 4 time that you want. And we'll try to remember to take 5 that break at 10:00 o'clock that was requested, so -- 6       All right. You ready? 7       A. Yes. 8       <b>Q. So what is Barker Contracting's primary job?</b> 9       A. We are a general contractor, commercial general 10 contractor. 11       <b>Q. And how old is the company?</b> 12       A. It started 2004, June, so that would be about 13 14 years coming up in June. 14       <b>Q. And you referred to it as Barker. Is that the</b> 15 <b>same as Barker Morrissey?</b> 16       A. Yes. 17       <b>Q. Okay. And Barker Morrissey, was it also</b> 18 <b>founded in 2004?</b> 19       A. Yes. 20       <b>Q. Okay. Have you ever worked on projects for the</b> 21 <b>county? By you I mean has Barker Morrissey worked on</b> 22 <b>projects for the county before this one?</b> 23       A. Yes. 24       <b>Q. How many?</b> 25       A. I don't know.</p>	<p style="text-align: right;">Page 7</p> <p>1       MR. KRAUJA: Objection; form. 2       MR. SANDEFUR: Well, normally we go ahead and 3 answer questions and the objections are preserved on the 4 record for determination later, so is it okay to continue 5 answering the question? 6       MR. KRAUJA: You can. Just so you're clear, 7 you said unusual. He said different. 8       MR. SANDEFUR: Okay. 9       MR. KRAUJA: And so it's -- you misstated his 10 prior testimony. 11       MR. SANDEFUR: Okay. Well, that wasn't my 12 intention. 13 BY MR. SANDEFUR: 14       <b>Q. What you said was that it was different than</b> 15 <b>previous projects in the procurement method. Is it the</b> 16 <b>case that in previous projects it was done through a</b> 17 <b>competitive bidding process?</b> 18       A. No. 19       <b>Q. It was not done through competitive bidding?</b> 20       A. Yes and no. It -- it -- it was through a job 21 order contract. 22       <b>Q. And what is a job order contract?</b> 23       A. Excuse me. I'm -- I'm trying -- I could be 24 wrong here. I -- I can't remember whether it was the 25 county or the city we were working with on the job or a</p>

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1       **Q.** On the first page here, there's an e-mail from  
2       **Phil Swaim to Alex Rodriguez. Do you know who Alex**  
3       **Rodriguez is?**  
4       A. Yes.  
5       **Q.** And you're cc'd on this; correct?  
6       A. It appears so, yes.  
7       **Q.** And it refers here to Barker Morrissey putting  
8       together some cost comparisons. Do you know what that's  
9       referring to?  
10      A. Are you referring to the second paragraph where  
11      it talks about the 700 foot --  
12      **Q.** No. Below that at the bottom of the page, it  
13      says, Barker Morrissey can quickly put together some cost  
14      comparisons for you and Pima County to use in negotiations  
15      with the state this week.  
16      Do you know what that's referring to?  
17      A. Without looking at this further, I do not.  
18      **Q.** Do you remember if you did put together some  
19      cost comparisons in November of 2015?  
20      A. Yes.  
21      **Q.** Comparisons of what?  
22      A. I'm -- I'm not sure. I -- I would be somewhat  
23      guessing.  
24      **Q.** When it says cost comparisons, though, that's a  
25      term that you are familiar with, isn't it?

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1       A. Uh-huh.  
2       **Q.** And what does that normally refer to?  
3       A. In this context, it's normally referred to --  
4       if we reduce the size of the building or if we use a  
5       different finish on the building or if we add to the  
6       building, cost comparisons in that regard.  
7       **Q.** I see.  
8       And on the next page, the one that's marked  
9       4417 at the bottom, there's this highlighted portion here.  
10      And after that highlighted portion where it says number  
11      three, it says, there was some reaction to the potential  
12      timing on the construction. And then it says nine months  
13      would be cutting it too close without having a good set of  
14      drawings and specifications in hand. Do you know what  
15      that's referring to?  
16      A. I expect it's referring to the construction of  
17      the project.  
18      **Q.** Do you know what it means by cutting it too  
19      close?  
20      A. I -- I'm assuming that it means cutting it too  
21      close to get it done in time.  
22      **Q.** In time for what?  
23      A. The timeframe that they needed.  
24      **Q.** And it says here, during our discussion at Phil  
25      Swaim's office.

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1       Were you present at the discussion that that's  
2       referring to?  
3       MR. KRAUJA: Objection; form.  
4       Go ahead and answer.  
5       THE WITNESS: I don't know. I don't recall. I  
6       don't think so.  
7       BY MR. SANDEFUR:  
8       **Q.** Okay. Do you remember discussing with anyone  
9       from World View how long it would take to complete the  
10      project?  
11      A. Yes.  
12      **Q.** And you said that you first began these  
13      discussions probably in August of 2015. Was it at that  
14      time that it was brought to your attention when they would  
15      need this project done?  
16      MR. KRAUJA: Objection; form.  
17      Go ahead and answer.  
18      THE WITNESS: I do not believe it was in  
19      August.  
20      BY MR. SANDEFUR:  
21      **Q.** Do you remember when it was that they told you  
22      their deadline?  
23      A. I believe it was sometime in September.  
24      **Q.** This e-mail that talks about the drawings and  
25      specifications, do you remember whether you did get them,

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1       the drawings and specifications that this is referring to?  
2       MR. KRAUJA: Objection; form.  
3       Go ahead and answer.  
4       THE WITNESS: Could you repeat that, please?  
5       BY MR. SANDEFUR:  
6       **Q.** Where it says number three that we were looking  
7       at earlier where it refers to drawings and specifications,  
8       did your company prepare those drawings and  
9       specifications?  
10      A. No.  
11      **Q.** Were those done by the Swaim office?  
12      A. Yes.  
13      MR. KRAUJA: Objection; form.  
14      Go ahead and answer.  
15      THE WITNESS: Yes.  
16      BY MR. SANDEFUR:  
17      **Q.** Did you need those drawings and specifications  
18      to put together a bid for this project?  
19      A. No, but I -- I -- I wouldn't call this a bid,  
20      though.  
21      **Q.** Why not?  
22      A. Because it wasn't. It was -- it was an  
23      estimate.  
24      **Q.** Did you need the drawings in order to prepare  
25      the estimate?

<p style="text-align: right;">Page 28</p> <p>1 THE WITNESS: Yes, I suppose so.</p> <p>2 BY MR. SANDEFUR:</p> <p>3 Q. And do you know when that proposition was made</p> <p>4 to World View?</p> <p>5 A. No, I don't.</p> <p>6 Q. Why don't we move on to the next paper here.</p> <p>7 (Deposition Exhibit 5 marked for identification)</p> <p>8 BY MR. SANDEFUR:</p> <p>9 Q. These are some handwritten notes. And you see</p> <p>10 they're dated August 20th, 2015. Do you know who took</p> <p>11 these notes?</p> <p>12 A. No.</p> <p>13 Q. And it says -- at the top here, it's got a list</p> <p>14 of names and it looks, you know, like it's a</p> <p>15 memorialization of a meeting or something.</p> <p>16 A. Uh-huh.</p> <p>17 Q. And it says here Brian Barker along with World</p> <p>18 View, Kevin Morrissey, Alex Rodriguez, Swaim &amp; Associates.</p> <p>19 Did you attend a meeting in August of 2015 with these</p> <p>20 people?</p> <p>21 A. Yes.</p> <p>22 Q. Were there any representatives from any other</p> <p>23 contracting companies at that meeting?</p> <p>24 A. No.</p> <p>25 Q. Were there any representatives from any other</p>	<p style="text-align: right;">Page 30</p> <p>1 A. We were invited to provide cost estimates so</p> <p>2 they can make a decision.</p> <p>3 Q. And when you say they could make a decision,</p> <p>4 whom are you referring to?</p> <p>5 A. We didn't know -- we didn't know at the time,</p> <p>6 certainly then, who the decision makers were.</p> <p>7 Q. And what kind of decision are you referring to?</p> <p>8 A. Whether they want to build a building or</p> <p>9 whether they were going to -- we didn't know whether -- at</p> <p>10 that time whether they'd be moving or had the opportunity</p> <p>11 to move away.</p> <p>12 Q. Let's move on to the next document here.</p> <p>13 (Deposition Exhibit 6 marked for identification)</p> <p>14 BY MR. SANDEFUR:</p> <p>15 Q. And this is dated August 25th, 2015. That's</p> <p>16 just about five days after the last thing, right? Do you</p> <p>17 recognize this?</p> <p>18 A. Yes.</p> <p>19 Q. What is this?</p> <p>20 A. It's a preliminary estimate.</p> <p>21 Q. And did you prepare this?</p> <p>22 A. No.</p> <p>23 Q. Did your office prepare this?</p> <p>24 A. Yes.</p> <p>25 Q. Did you look it over before finalizing it?</p>
<p style="text-align: right;">Page 29</p> <p>1 architecture firms at that meeting?</p> <p>2 A. No.</p> <p>3 Q. Do you remember what was discussed at that</p> <p>4 meeting?</p> <p>5 A. Well, I -- yes.</p> <p>6 Q. What?</p> <p>7 A. Essentially that World View was looking to stay</p> <p>8 in Tucson and there were some -- I believe at that meeting</p> <p>9 we had our first -- it was one sheet of paper of the size</p> <p>10 of the project.</p> <p>11 Q. I notice down here below the names there's a</p> <p>12 reference to -- it looks like size, like 100 times 600,</p> <p>13 balloon manufacturing, 24 foot and all that stuff. Is</p> <p>14 that in reference to that drawing you're talking about?</p> <p>15 A. And now that you say that, maybe we did not</p> <p>16 have even a drawing at that point. I don't remember if we</p> <p>17 had a sheet of paper or not, but I know the first time it</p> <p>18 was, you know, hardly anything. Maybe I'm thinking of</p> <p>19 just this.</p> <p>20 Q. Uh-huh. Who invited you to this meeting?</p> <p>21 A. I don't -- I don't know.</p> <p>22 Q. Do you remember why you were invited to this</p> <p>23 meeting?</p> <p>24 A. I can tell you what I assumed.</p> <p>25 Q. Please.</p>	<p style="text-align: right;">Page 31</p> <p>1 A. Yes.</p> <p>2 Q. Is this what estimates normally look like in</p> <p>3 projects that Barker works on?</p> <p>4 A. Yes.</p> <p>5 Q. So like the EuroFresh and recycling projects</p> <p>6 that you mentioned, did you prepare estimates similar to</p> <p>7 this for those projects?</p> <p>8 A. Yes.</p> <p>9 Q. Was this the very first estimate that your</p> <p>10 office did on this project?</p> <p>11 A. I don't know, but I believe so.</p> <p>12 Q. And I noticed that there's a lot of blank</p> <p>13 spaces here for things like furnishing and roofing and</p> <p>14 stuff. Is that normal?</p> <p>15 A. Yes.</p> <p>16 Q. And at the bottom of the second page, it says</p> <p>17 exclusions, and then there's a list there. What does</p> <p>18 exclusions mean?</p> <p>19 A. They're not included in the above estimate.</p> <p>20 Q. Does that mean that those things will in the</p> <p>21 future be added to the estimate?</p> <p>22 A. Not necessarily. It depends on the client's</p> <p>23 needs.</p> <p>24 Q. And below that it says break out budgets. What</p> <p>25 is a break out budget?</p>

<p style="text-align: right;">Page 36</p> <p>1       <b>Q. And I think it says corrugation concrete. Do</b>  2 <b>you know what that's referring to?</b>  3       MR. FLAGG: Form.  4       MR. KRAUJA: Objection; form.  5       Go ahead and answer.  6       THE WITNESS: I doubt that it's corrugation,  7 but it's difficult to read.  8 BY MR. SANDEFUR:  9       <b>Q. It is.</b>  10      A. So it would be -- my assumption is it's  11 referring to compaction in concrete.  12       <b>Q. And do you know what that means?</b>  13      A. Preparing the soil.  14       <b>Q. Was Barker Morrissey going to be responsible</b>  15 <b>for preparing the soil for the launch pad in this project?</b>  16      MR. KRAUJA: Objection; form.  17      Go ahead and answer.  18      THE WITNESS: Yes.  19      MR. SANDEFUR: All right. Let's move on to the  20 next document here.  21      (Deposition Exhibit 8 marked for identification)  22 BY MR. SANDEFUR:  23       <b>Q. So I want to ask you about a couple e-mails</b>  24 <b>here. This is an e-mail that's dated August 29th, 2015,</b>  25 <b>from Maricela Solis to Kevin Morrissey. Do you know who</b></p>	<p style="text-align: right;">Page 38</p> <p>1      A. Yes.  2       <b>Q. What is it referring to?</b>  3      A. They had initially talked about having a super  4 flat slab for their manufacturing area and there was --  5 the cost for a super flat is -- is higher than a less than  6 super flat. That's what it's referring to.  7       <b>Q. And there's some other references here. It</b>  8 <b>says here, verifying potential cost saving for modifying</b>  9 <b>the building clear span/bay spacing.</b>  10       <b>Do you know what that's referring to?</b>  11      A. Yes.  12       <b>Q. What does it refer to?</b>  13      A. The -- the column spacing and the building.  14 The column spacing affects the cost of the building. The  15 more columns you have, the less cost.  16       <b>Q. And what is bay spacing?</b>  17      A. Essentially the area between columns.  18       <b>Q. And do you know why that would need to be</b>  19 <b>modified?</b>  20      A. I'm assuming that this is -- my recollection is  21 that, like many other buildings that we've worked on, it's  22 the requirement of what their needs are in relation to  23 what the -- the column spacing is going to be. Some  24 people need 20 feet, some people need 60 feet. It just  25 depends on their requirements.</p>
<p style="text-align: right;">Page 37</p> <p>1      <b>Maricela Solis is?</b>  2      A. Yes.  3       <b>Q. Who is she?</b>  4      A. You know, I'm not sure of her title, but it's  5 something -- she works for World View. I think it's  6 related to business development.  7       <b>Q. And do you recall seeing this e-mail when it</b>  8 <b>was new?</b>  9      A. No.  10       <b>Q. At the bottom here, there's an e-mail from</b>  11 <b>Kevin Morrissey to Maricela Solis dated August 28th, 2015,</b>  12 <b>and it refers to -- it says here, I noted the areas we</b>  13 <b>discussed.</b>  14       <b>Do you know what discussion that was referring</b>  15 <b>to?</b>  16      MR. FLAGG: Form.  17      MR. KRAUJA: Object to form. And also this  18 e-mail appears incomplete. Exhibit 8 is not a complete  19 e-mail.  20      MR. SANDEFUR: That's correct.  21 BY MR. SANDEFUR:  22       <b>Q. And it says -- below that line, it says,</b>  23 <b>scaling down the super flat concrete requirement to a flat</b>  24 <b>slab.</b>  25       <b>Do you know what that's referring to?</b></p>	<p style="text-align: right;">Page 39</p> <p>1       <b>Q. Sure.</b>  2       <b>You said that it's expensive to make super flat</b>  3 <b>and less expensive to make regular flat; is that right?</b>  4      A. Yeah.  5       <b>Q. How much more expensive is it?</b>  6      A. I don't -- I -- I'd have to look it up.  7       <b>Q. So what does super flat refer to then?</b>  8      A. Super flat, it's just a -- concrete is -- can  9 have -- there's different levels of flatness. There's  10 gauges that check flatness of a floor and some floors are  11 not as flat as others. They just look -- the extreme  12 version would be like that, of course, (indicating) and  13 super flat is just about as flat as you can get.  14       <b>Q. So did World View not need a super flat floor?</b>  15      A. That's my recollection, yes.  16       <b>Q. So is it correct that after that August meeting</b>  17 <b>that we saw the handwritten notes for, then there were</b>  18 <b>revisions that you made to the estimate that, among other</b>  19 <b>things, said no super flat floor?</b>  20      A. Yes.  21       <b>Q. Do you know why Barker Morrissey specifically</b>  22 <b>was chosen to participate in these discussions?</b>  23      A. No.  24       <b>Q. Do you know why no other contractor was asked</b>  25 <b>to participate in these discussions?</b></p>

<p style="text-align: right;">Page 40</p> <p>1 A. No.</p> <p>2 <b>Q. At the other projects you referred to or any</b></p> <p>3 <b>other project, I mean, you know, any project that you're</b></p> <p>4 <b>familiar with but that Barker Morrissey has been involved</b></p> <p>5 <b>with, in those cases, has Barker been the only contractor</b></p> <p>6 <b>to participate in discussions?</b></p> <p>7 MR. KRAUJA: Objection; form.</p> <p>8 Go ahead and answer.</p> <p>9 THE WITNESS: Yes.</p> <p>10 BY MR. SANDEFUR:</p> <p>11 <b>Q. Do you know which projects those were?</b></p> <p>12 A. Well, the two that I -- or the three that I</p> <p>13 mentioned, EuroFresh and -- and the recycling facility as</p> <p>14 well as Texas Instruments.</p> <p>15 <b>Q. Forgive me. I don't remember whether I asked</b></p> <p>16 <b>this before, but have you ever worked with World View</b></p> <p>17 <b>before this project?</b></p> <p>18 A. No.</p> <p>19 <b>Q. Let's move on then to the next document here.</b></p> <p>20 <b>(Deposition Exhibit 9 marked for identification)</b></p> <p>21 MR. KRAUJA: And just to make sure I'm keeping</p> <p>22 my numbering straight, is this now 9?</p> <p>23 (Discussion off the record)</p> <p>24 BY MR. SANDEFUR:</p> <p>25 <b>Q. And this document is dated September 2nd, 2015.</b></p>	<p style="text-align: right;">Page 42</p> <p>1 <b>Q. Now, this document looks a lot more complete</b></p> <p>2 <b>than the last one that we looked at; is that correct?</b></p> <p>3 A. No.</p> <p>4 <b>Q. So what is left out of this document?</b></p> <p>5 MR. KRAUJA: Objection; form.</p> <p>6 Go ahead and answer.</p> <p>7 THE WITNESS: I hope nothing, but I don't know.</p> <p>8 BY MR. SANDEFUR:</p> <p>9 <b>Q. And why did you not sign a contract with the</b></p> <p>10 <b>county at this time?</b></p> <p>11 A. I'm making assumptions. We couldn't. There</p> <p>12 was no deal yet if you will.</p> <p>13 (Deposition Exhibit 10 marked for identification)</p> <p>14 BY MR. SANDEFUR:</p> <p>15 <b>Q. I'm sorry. Let me -- I've gotten this</b></p> <p>16 <b>incorrect. This is not the right document. Let's put</b></p> <p>17 <b>that aside. I meant to give you this document here</b></p> <p>18 <b>(indicating).</b></p> <p>19 <b>In fact, why don't we go ahead and take a break</b></p> <p>20 <b>right now. We've been going on for a while. I want to</b></p> <p>21 <b>make sure that some of the questions may have anticipated</b></p> <p>22 <b>what I was planning on doing, so let's take five minutes.</b></p> <p>23 <b>(Discussion off the record)</b></p> <p>24 <b>(Recess)</b></p> <p>25 ///</p>
<p style="text-align: right;">Page 41</p> <p>1 <b>Do you recognize this?</b></p> <p>2 A. Yes.</p> <p>3 <b>Q. Did Barker Morrissey prepare this?</b></p> <p>4 A. Yes.</p> <p>5 <b>Q. It says here base bid. What does that refer</b></p> <p>6 <b>to?</b></p> <p>7 A. Where does it say that?</p> <p>8 <b>Q. At the very top.</b></p> <p>9 A. I think -- I don't even know -- I don't think</p> <p>10 it's appropriate, but it just refers to our estimate at</p> <p>11 that time.</p> <p>12 <b>Q. So there's no difference between a base bid and</b></p> <p>13 <b>an estimate?</b></p> <p>14 A. It depends on who you ask. I believe there is,</p> <p>15 but it depends on who you ask.</p> <p>16 <b>Q. What is the difference in your opinion?</b></p> <p>17 A. A bid, you're competing. An estimate is you're</p> <p>18 providing an estimate.</p> <p>19 <b>Q. And this was intended as an estimate?</b></p> <p>20 A. Yes.</p> <p>21 <b>Q. And did Barker -- I'm sorry. I asked that.</b></p> <p>22 <b>This number here at the bottom, 9,973,329, what</b></p> <p>23 <b>does that number refer to?</b></p> <p>24 A. The building. And it looks like they have some</p> <p>25 money in there for the launch pad.</p>	<p style="text-align: right;">Page 43</p> <p>1 BY MR. SANDEFUR:</p> <p>2 <b>Q. I just wanted to clear up some things that we</b></p> <p>3 <b>talked about in the first portion there that I think I was</b></p> <p>4 <b>a little unclear on. Forgive me if I misremember, and</b></p> <p>5 <b>please correct me, but I thought -- I think you said that</b></p> <p>6 <b>someone at World View told you their deadline for the</b></p> <p>7 <b>completion of the project would be sometime in August of</b></p> <p>8 <b>2014. Is that right?</b></p> <p>9 MR. FLAGG: Form.</p> <p>10 THE WITNESS: It's not what I recall. I recall</p> <p>11 hearing it first from -- actually I don't think it was --</p> <p>12 I'm not sure. I think it was in September that I heard it</p> <p>13 first and I don't know -- I don't remember, though,</p> <p>14 whether it was in a meeting or directly from Phil Swaim.</p> <p>15 BY MR. SANDEFUR:</p> <p>16 <b>Q. But you know that it came from Mr. Swaim or do</b></p> <p>17 <b>you think it came from somebody else?</b></p> <p>18 A. To me --</p> <p>19 <b>Q. Right.</b></p> <p>20 A. -- where it came from? I think it came from</p> <p>21 someone else. I'm -- I'm sorry. I think someone else --</p> <p>22 I'm -- I'm making assumptions here. I -- I don't know and</p> <p>23 I'm not certain who I heard it from first or when except</p> <p>24 it was early on in the project. I think it was Phil</p> <p>25 Swaim, though, is my recollection that I first heard it.</p>

<p style="text-align: right;">Page 44</p> <p>1       <b>Q. But you don't remember exactly what was said?</b></p> <p>2       A. Just that they needed to get in there fast and</p> <p>3       it -- it was a -- I don't remember hearing a date, just</p> <p>4       the length of time.</p> <p>5       <b>Q. Do you remember when you first heard what the</b></p> <p>6       <b>date would be?</b></p> <p>7       A. No.</p> <p>8       <b>Q. Generally speaking, when you do an estimate</b></p> <p>9       <b>like the ones we've been looking at, how long does it take</b></p> <p>10       <b>to write up an estimate like that?</b></p> <p>11       A. Anywhere from a week to two weeks.</p> <p>12       <b>Q. And do you -- I mean, generally speaking again,</b></p> <p>13       <b>when you're doing an estimate like this, you don't just</b></p> <p>14       <b>sit at your desk to prepare one, I mean, you must go to</b></p> <p>15       <b>the site or something; is that right?</b></p> <p>16       A. Generally speaking, yes.</p> <p>17       <b>Q. Can you take me through the steps of how you</b></p> <p>18       <b>prepare an estimate like this when somebody calls you up</b></p> <p>19       <b>and says, I'd like you to do an estimate on a building for</b></p> <p>20       <b>me? What's your next step?</b></p> <p>21       A. Get whatever information is available, size,</p> <p>22       scope, level of finishes, the site, learn about the site</p> <p>23       and what's required of the site, and then start developing</p> <p>24       the estimate from there based on subcontractor input</p> <p>25       and/or past projects and square foot cost.</p>	<p style="text-align: right;">Page 46</p> <p>1       it's not uncommon.</p> <p>2       <b>Q. But it does happen and it's not rare?</b></p> <p>3       A. That's correct.</p> <p>4       <b>Q. What other clients would you say ask you to do</b></p> <p>5       <b>estimates?</b></p> <p>6       A. What other clients?</p> <p>7       <b>Q. Yeah. I mean, is it normally companies,</b></p> <p>8       <b>businesses?</b></p> <p>9       A. Yes.</p> <p>10       <b>Q. Do you do residential construction at all?</b></p> <p>11       A. No.</p> <p>12       <b>Q. Do government entities ask you to do estimates?</b></p> <p>13       A. Generally, no.</p> <p>14       <b>Q. And do you normally charge for the preparation</b></p> <p>15       <b>of an estimate?</b></p> <p>16       A. It varies.</p> <p>17       <b>Q. Depending on what?</b></p> <p>18       A. The client, the project, our level of comfort.</p> <p>19       <b>Q. So there are times when you do an estimate and</b></p> <p>20       <b>you don't charge for it?</b></p> <p>21       A. More often than not.</p> <p>22       <b>Q. And why would you do a project -- or do an</b></p> <p>23       <b>estimate and not charge for it?</b></p> <p>24       A. In hopes of getting and doing the project.</p> <p>25       <b>Q. When you do an estimate and you don't charge</b></p>
<p style="text-align: right;">Page 45</p> <p>1       <b>Q. When you say subcontractor input, you mean that</b></p> <p>2       <b>you call up subcontractors and you say, I'm doing an</b></p> <p>3       <b>estimate for Mr. Sandefur, here's, generally speaking,</b></p> <p>4       <b>what he needs. What -- would you charge me?</b></p> <p>5       A. Yes.</p> <p>6       <b>Q. And obviously it depends on the project, but on</b></p> <p>7       <b>a project of this scale, are there a lot of</b></p> <p>8       <b>subcontractors?</b></p> <p>9       A. Yes.</p> <p>10       <b>Q. So in preparing an estimate like this, it would</b></p> <p>11       <b>take on the longer end of the range of time that you gave</b></p> <p>12       <b>me?</b></p> <p>13       MR. KRAUJA: Objection; form.</p> <p>14       Go ahead and answer.</p> <p>15       THE WITNESS: It depends on the client's needs.</p> <p>16       We can provide an estimate, as we did in this case, rather</p> <p>17       quickly. It's not always as accurate as it could be, but</p> <p>18       we think it's pretty close.</p> <p>19       BY MR. SANDEFUR:</p> <p>20       <b>Q. And would you say that all or nearly all of</b></p> <p>21       <b>your clients ask you to do estimates?</b></p> <p>22       A. Yes.</p> <p>23       <b>Q. How common is it for people to ask you to do</b></p> <p>24       <b>estimates but then not go through with the project?</b></p> <p>25       A. It's not uncommon. I don't -- I couldn't --</p>	<p style="text-align: right;">Page 47</p> <p>1       for it, would you say that's because you expect to get the</p> <p>2       project and complete the project?</p> <p>3       A. It's our hope, not an expectation.</p> <p>4       <b>Q. How many staff would you say are, generally</b></p> <p>5       <b>speaking, involved in preparing an estimate like this?</b></p> <p>6       A. I'm sorry. Can you repeat that?</p> <p>7       <b>Q. How many staff are normally involved in</b></p> <p>8       <b>preparing an estimate like that?</b></p> <p>9       A. In this case, four, maybe five.</p> <p>10       <b>Q. And when somebody comes to you with a request</b></p> <p>11       <b>to do an estimate, do they normally have a number in mind</b></p> <p>12       <b>already of their bottom line cost that they're willing to</b></p> <p>13       <b>spend?</b></p> <p>14       A. It varies.</p> <p>15       <b>Q. So sometimes they do and sometimes they don't?</b></p> <p>16       A. (No oral response).</p> <p>17       <b>Q. Would you say that it's more often that people</b></p> <p>18       <b>do?</b></p> <p>19       MR. KRAUJA: Objection; form.</p> <p>20       Go ahead and answer.</p> <p>21       THE WITNESS: Yeah, I suppose so.</p> <p>22       BY MR. SANDEFUR:</p> <p>23       <b>Q. Do you remember in this case when you were</b></p> <p>24       <b>approached to do this estimate for World View, were you</b></p> <p>25       <b>given a budget that they wanted you to stay within?</b></p>

1 A. I don't recall.

2 **Q. It's interesting because you said that this was**  
3 **an unusual project, that you haven't done a project like**  
4 **this before, but when you were approached to do an**  
5 **estimate on it, you were not given any bottom line number**  
6 **of how much the customer was willing to spend?**

7 MR. FLAGG: Form.

8 THE WITNESS: I don't recall. We -- we may  
9 very well have. I just -- I don't recall.

10 BY MR. SANDEFUR:

11 **Q. Do you know who would know that information?**

12 A. So at some point we obviously determined what  
13 the budget would be. I don't recall when it was. I don't  
14 think it was in August. I don't think it was in  
15 September, although it may have been. At some point,  
16 there was discussion about what the budget should be or  
17 what they wanted it to be, but I don't recall exactly when  
18 it was or what the amounts were.

19 And to answer your question, I would have to  
20 check with the project manager. He may have information  
21 on that.

22 **Q. And who was the project manager?**

23 A. Initially it was -- Matt Watza was doing the  
24 estimates and the person that became the project manager  
25 and did the primary -- the primary person in -- well,

1 Well, let me back up and say -- you've been  
2 saying, I think, that this estimate was kind of a rough  
3 outline. Is that right?

4 A. Correct.

5 **Q. So you would probably prepare a more detailed**  
6 **estimate further on down the road on some -- on most**  
7 **projects; right?**

8 A. Yes.

9 **Q. And would you charge more or less for the more**  
10 **detailed estimate?**

11 A. More.

12 **Q. If you came to a customer with an estimate like**  
13 **this and they said, you know, I'm really interested, but**  
14 **here's some more details and I'd like you to prepare a**  
15 **more specific estimate and then you came back with a**  
16 **revised estimate, would you charge them for both of those**  
17 **estimates separately?**

18 A. We -- we don't charge in that regard. It's  
19 a -- when we're doing estimates, it is over a period of  
20 time generally speaking, but I guess to answer your  
21 question, yes.

22 **Q. Do you remember how many estimates you did for**  
23 **the World View project before January of 2016?**

24 A. I don't, no.

25 **Q. Do you know whether it was more than 10?**

1 sorry, Riley Rasmussen.

2 **Q. Did Mr. Rasmussen or -- the other person's**  
3 **name?**

4 A. Matt Watza.

5 **Q. Did either of them attend these meetings in**  
6 **August of 2015 and the other meeting that we were talking**  
7 **about earlier?**

8 A. Matt Watza I'm sure attended one of those  
9 meetings. I couldn't tell you how many, though.

10 **Q. But it's your recollection -- again, correct me**  
11 **if I'm wrong, but is it your recollection that at these**  
12 **August meetings no bottom line budget number was given to**  
13 **you?**

14 A. I don't recall getting anything at that time.

15 **Q. If you were to charge for preparing an estimate**  
16 **on a project of this scope, can you say how much you would**  
17 **charge for preparing such an estimate?**

18 MR. KRAUJA: Objection; form.

19 Go ahead and answer.

20 THE WITNESS: Just at that level?

21 BY MR. SANDEFUR:

22 **Q. Yes.**

23 A. \$2,000.

24 **Q. And if it were more specific, if you got really**  
25 **into the great detail --**

1 A. I don't think so.

2 **Q. Do you know whether it was more than five?**

3 A. Likely.

4 **Q. Let's look at this document next.**  
5 **(Deposition Exhibit 11 marked for identification)**

6 BY MR. SANDEFUR:

7 **Q. And this document is dated November 23rd, 2015,**  
8 **although that's been scratched out and the word replaced**  
9 **has been written above it. Do you recognize this**  
10 **document?**

11 A. It looks familiar.

12 **Q. What is this document?**

13 A. It's a preliminary budget for World View. It  
14 looks incomplete. There's no page two.

15 **Q. Yeah. I think I left a page off there.**

16 Now, why did you prepare a preliminary budget  
17 in November 23rd, 2015, when you had already done a budget  
18 before, the one that we looked at?

19 A. Because requirements changed.

20 **Q. And did you write the word replace there or did**  
21 **somebody else?**

22 A. It was not me.

23 **Q. Do you remember preparing this estimate here?**

24 A. No.

25 **Q. Do you remember what requirements had changed?**

<p style="text-align: right;">Page 52</p> <p>1 A. No.</p> <p>2 <b>Q. Do you remember how long it took to revise the</b></p> <p>3 <b>estimate?</b></p> <p>4 A. No.</p> <p>5 <b>Q. Did you charge the county for preparing this</b></p> <p>6 <b>estimate?</b></p> <p>7 A. No.</p> <p>8 <b>Q. Did you charge them for preparing the earlier</b></p> <p>9 <b>estimate that we looked at?</b></p> <p>10 A. No.</p> <p>11 <b>Q. Did you charge them for preparing any estimate?</b></p> <p>12 A. No.</p> <p>13 <b>Q. Well, that seems like a lot of work. I mean,</b></p> <p>14 <b>you went through preparing, you said, maybe somewhere</b></p> <p>15 <b>around five estimates and it took four staff members and</b></p> <p>16 <b>it took a good deal of time, several days, possibly weeks,</b></p> <p>17 <b>and you didn't charge for that. Is that common to do</b></p> <p>18 <b>that?</b></p> <p>19 A. It's not uncommon.</p> <p>20 <b>Q. When you say it's not uncommon, what do you</b></p> <p>21 <b>mean by that?</b></p> <p>22 A. I would say that more than 50 percent of our</p> <p>23 projects are handled this way.</p> <p>24 <b>Q. Do you normally charge nothing for estimates</b></p> <p>25 <b>when dealing with a government customer versus a</b></p>	<p style="text-align: right;">Page 54</p> <p>1 <b>pre-project work like this for free, you end up not being</b></p> <p>2 <b>hired on the project?</b></p> <p>3 A. Correct, or the project doesn't move forward.</p> <p>4 <b>Q. So how often would you say it is that a</b></p> <p>5 <b>contract goes to another contractor after you've done all</b></p> <p>6 <b>this pre-contract work?</b></p> <p>7 MR. KRAUJA: Objection; form.</p> <p>8 Go ahead and answer.</p> <p>9 THE WITNESS: Twenty, 30 percent of the time.</p> <p>10 BY MR. SANDEFUR:</p> <p>11 <b>Q. And what happens when that happens? Do you ask</b></p> <p>12 <b>the client to pay for the estimates after the fact or do</b></p> <p>13 <b>you just take it as a loss?</b></p> <p>14 A. Take it as a loss.</p> <p>15 <b>Q. Have you ever done pre-contract estimate work</b></p> <p>16 <b>for the county and not been hired as the contractor?</b></p> <p>17 A. No.</p> <p>18 <b>Q. What determines whether or not you charge for</b></p> <p>19 <b>an estimate?</b></p> <p>20 A. I'm not sure how to answer that.</p> <p>21 <b>Q. Well, what factors go into your thinking when</b></p> <p>22 <b>you're deciding whether or not to charge a customer for an</b></p> <p>23 <b>estimate?</b></p> <p>24 A. At this level, I would say we never charge.</p> <p>25 <b>Q. What do you mean, at this level?</b></p>
<p style="text-align: right;">Page 53</p> <p>1 <b>non-government customer?</b></p> <p>2 A. We didn't -- there's no difference.</p> <p>3 <b>Q. Okay. So it's not the case that if the -- if a</b></p> <p>4 <b>government customer comes to you, you don't charge them,</b></p> <p>5 <b>but you do charge businesses? It's not like that?</b></p> <p>6 A. It's not like that.</p> <p>7 <b>Q. And why would Barker Morrissey do so much work</b></p> <p>8 <b>without being paid?</b></p> <p>9 MR. KRAUJA: Objection; form.</p> <p>10 Go ahead and answer.</p> <p>11 THE WITNESS: In hope of getting the project.</p> <p>12 BY MR. SANDEFUR:</p> <p>13 <b>Q. Do you think it more likely to get the project</b></p> <p>14 <b>if you don't charge for the estimate?</b></p> <p>15 A. That doesn't -- I don't know that that is what</p> <p>16 we're thinking. We are -- we are working to give the</p> <p>17 design professionals and the owners the information they</p> <p>18 need to move forward. It is our hope that we're going to</p> <p>19 continue to move forward with them and do the project.</p> <p>20 <b>Q. Do you find that more often than not if you do</b></p> <p>21 <b>this estimate work for free that you end up being the</b></p> <p>22 <b>contractor on the project?</b></p> <p>23 A. That's a close one. Off the top of my head, I</p> <p>24 would say 50/50.</p> <p>25 <b>Q. So you'd say about half the time when you do</b></p>	<p style="text-align: right;">Page 55</p> <p>1 A. At this level of documents.</p> <p>2 <b>Q. I'm sorry. I don't understand what you mean,</b></p> <p>3 <b>at this level of the documents.</b></p> <p>4 A. This level of -- of information that we have</p> <p>5 and even beyond that, so there's no criteria if you will.</p> <p>6 <b>Q. Sorry if I'm misunderstanding, but I thought</b></p> <p>7 <b>that earlier you said that if you do an estimate and then</b></p> <p>8 <b>later revise the estimate that you do charge for the</b></p> <p>9 <b>second estimate.</b></p> <p>10 MR. FLAGG: Form.</p> <p>11 MR. KRAUJA: Objection; form.</p> <p>12 BY MR. SANDEFUR:</p> <p>13 <b>Q. Is that inconsistent with what you're saying</b></p> <p>14 <b>now?</b></p> <p>15 MR. KRAUJA: Objection; form.</p> <p>16 Go ahead and answer.</p> <p>17 THE WITNESS: So it depends if we're under</p> <p>18 contract or not to be a pre-construction -- for</p> <p>19 pre-construction services.</p> <p>20 BY MR. SANDEFUR:</p> <p>21 <b>Q. So if you are under contract for</b></p> <p>22 <b>pre-construction services, do you charge for the second</b></p> <p>23 <b>estimate?</b></p> <p>24 A. Yes.</p> <p>25 <b>Q. And if you're not under contract, then you</b></p>



<p style="text-align: right;">Page 60</p> <p>1 here.</p> <p>2 (Deposition Exhibit 12 marked for identification)</p> <p>3 BY MR. SANDEFUR:</p> <p>4 Q. And this is dated December 22nd, 2015, these</p> <p>5 handwritten notes here. And, again, it says some notes at</p> <p>6 the top that look like -- I'm assuming they're people who</p> <p>7 attended or participated in the discussion with World</p> <p>8 View. CHH I assume is Mr. Huckelberry and all that. Have</p> <p>9 you seen these notes before?</p> <p>10 A. No.</p> <p>11 Q. Okay. At the bottom it says, Swaim, slash,</p> <p>12 B-M, and then below that, assume mutually agreeable</p> <p>13 contractor.</p> <p>14 Do you know what that might be referring to?</p> <p>15 A. I do not.</p> <p>16 Q. Was it your understanding on December 22nd,</p> <p>17 2015, that's late December you just said, was it your</p> <p>18 understanding that Barker Morrissey was a mutually</p> <p>19 agreeable contractor to the county and World View?</p> <p>20 A. On that date?</p> <p>21 Q. Yes.</p> <p>22 A. No.</p> <p>23 Q. So when you said you felt optimistic that</p> <p>24 Barker would be the contractor and you said you felt that</p> <p>25 way in late 2015, you mean after December 22nd, 2015?</p>	<p style="text-align: right;">Page 62</p> <p>1 done already?</p> <p>2 A. Yes.</p> <p>3 Q. Did you ever --</p> <p>4 A. For the largest part, yes.</p> <p>5 Q. Did you ever consider what Barker might do in</p> <p>6 the event that it was not selected for this project?</p> <p>7 A. No.</p> <p>8 Q. If another contractor had been hired in January</p> <p>9 of 2016, do you think you might have sued the county over</p> <p>10 that?</p> <p>11 A. No.</p> <p>12 Q. Do you know if any other contractor was asked</p> <p>13 to do any pre-contract work on this project?</p> <p>14 A. I'm not aware of any.</p> <p>15 Q. This looks like a big document, but we're only</p> <p>16 going to look at a little bit of it, so --</p> <p>17 (Deposition Exhibit 13 marked for identification)</p> <p>18 BY MR. SANDEFUR:</p> <p>19 Q. Is this the contract that Barker signed with</p> <p>20 the county?</p> <p>21 MR. KRAUJA: Objection; form.</p> <p>22 Go ahead and answer.</p> <p>23 THE WITNESS: It appears so.</p> <p>24 BY MR. SANDEFUR:</p> <p>25 Q. Now, if you'll flip forward to page 3573. I'll</p>
<p style="text-align: right;">Page 61</p> <p>1 MR. FLAGG: Form.</p> <p>2 THE WITNESS: Yes.</p> <p>3 BY MR. SANDEFUR:</p> <p>4 Q. So it was only in the last week of 2015 that</p> <p>5 you felt optimistic that Barker would be the contractor on</p> <p>6 the project?</p> <p>7 A. No.</p> <p>8 Q. When did you feel optimistic?</p> <p>9 A. If the project moved forward, I felt optimistic</p> <p>10 in November.</p> <p>11 Q. And why was that?</p> <p>12 A. Because we put forth a lot of effort, provided</p> <p>13 a lot of information.</p> <p>14 Q. Would it have been possible for the county in</p> <p>15 January of 2016 to have chosen a different contractor?</p> <p>16 MR. FLAGG: Form and foundation.</p> <p>17 MR. KRAUJA: Objection; form.</p> <p>18 Go ahead and answer.</p> <p>19 THE WITNESS: I assume so.</p> <p>20 BY MR. SANDEFUR:</p> <p>21 Q. With the work that you had done and everything</p> <p>22 prior to that point, if the county had chosen a different</p> <p>23 contractor, do you have any idea what would have happened</p> <p>24 at that point? What I mean by that is, would the new</p> <p>25 contractor have to come in and redo all the work you had</p>	<p style="text-align: right;">Page 63</p> <p>1 show it to you, but it looks like every other page of the</p> <p>2 contract. You see there's these whereas, whereas, whereas</p> <p>3 there. Do you see that?</p> <p>4 A. Yes.</p> <p>5 Q. The third whereas down there -- I'm sorry, the</p> <p>6 fourth whereas down there, it says, whereas due to CMAR's</p> <p>7 past experience and knowledge specific to this project, it</p> <p>8 was determined under the emergency procurement provisions,</p> <p>9 et cetera, that competitive procurement would be contrary</p> <p>10 to the county's interests.</p> <p>11 Do you know what that means?</p> <p>12 MR. FLAGG: Foundation.</p> <p>13 MR. KRAUJA: Objection; form.</p> <p>14 Go ahead and answer.</p> <p>15 THE WITNESS: I believe so.</p> <p>16 BY MR. SANDEFUR:</p> <p>17 Q. What do you understand that to mean?</p> <p>18 A. That it would not have been in their interest</p> <p>19 to hire another -- or try to procure another contractor.</p> <p>20 Q. And do you know why?</p> <p>21 MR. FLAGG: Foundation.</p> <p>22 THE WITNESS: Time primarily.</p> <p>23 BY MR. SANDEFUR:</p> <p>24 Q. Do you think that's referring to what I said</p> <p>25 earlier about how, if they had gone with another</p>

<p style="text-align: right;">Page 64</p> <p>1 contractor, they would kind of be back at the drawing</p> <p>2 board?</p> <p>3 MR. FLAGG: Form and foundation.</p> <p>4 THE WITNESS: Yes.</p> <p>5 BY MR. SANDEFUR:</p> <p>6 Q. Was it your understanding before January of</p> <p>7 2016 that the county was of the view that it would be</p> <p>8 contrary to the county's interests to open this up to</p> <p>9 competitive bidding?</p> <p>10 MR. FLAGG: Form and foundation.</p> <p>11 MR. KRAUJA: Objection; form.</p> <p>12 Go ahead and answer.</p> <p>13 THE WITNESS: Was it my understanding?</p> <p>14 BY MR. SANDEFUR:</p> <p>15 Q. Yeah.</p> <p>16 A. Yes.</p> <p>17 Q. Was Barker Morrissey paid after January 2016</p> <p>18 for the pre-contract work that it did?</p> <p>19 A. No.</p> <p>20 (Deposition Exhibit 14 marked for identification)</p> <p>21 BY MR. SANDEFUR:</p> <p>22 Q. Do you know what this document is?</p> <p>23 A. Yes.</p> <p>24 Q. What is it?</p> <p>25 A. It is a report from our -- our software, our</p>	<p style="text-align: right;">Page 66</p> <p>1 A. No, generally not more often but sometimes not</p> <p>2 at all.</p> <p>3 Q. Okay. And what sort of information do you put</p> <p>4 on these reports?</p> <p>5 A. What you see here, the cost of the project.</p> <p>6 Q. Okay.</p> <p>7 A. Or a project.</p> <p>8 Q. And it refers here to some hours and payments.</p> <p>9 The first one is Brian A. Barker and it's dated</p> <p>10 January 10th, 2016, for \$437.50. And then below, there is</p> <p>11 another one to Brian Barker for \$1,156.25. What are these</p> <p>12 payments for?</p> <p>13 MR. KRAUJA: Objection; form.</p> <p>14 Go ahead and answer.</p> <p>15 THE WITNESS: Services.</p> <p>16 BY MR. SANDEFUR:</p> <p>17 Q. What services?</p> <p>18 A. Estimating services, scheduling services.</p> <p>19 Q. So when you say estimating services, these are</p> <p>20 the services of preparing the estimates like what we were</p> <p>21 looking at earlier?</p> <p>22 A. Like that, yes.</p> <p>23 Q. And do you remember what date the county</p> <p>24 approved the contract?</p> <p>25 A. I believe it was in February but not the date.</p>
<p style="text-align: right;">Page 65</p> <p>1 contracting software.</p> <p>2 Q. Is this a list of charges to the county from</p> <p>3 Barker?</p> <p>4 MR. FLAGG: Form.</p> <p>5 THE WITNESS: I don't know. It appears so, but</p> <p>6 I'm not certain, though. I don't know.</p> <p>7 BY MR. SANDEFUR:</p> <p>8 Q. What more information would you need to make</p> <p>9 that call?</p> <p>10 A. An invoice.</p> <p>11 Q. It says here, job history -- job cost history</p> <p>12 report from inception to February 25th, 2016. Does Barker</p> <p>13 routinely prepare job cost history reports for its</p> <p>14 projects?</p> <p>15 A. Yes.</p> <p>16 Q. How often does it do that?</p> <p>17 A. For the client --</p> <p>18 Q. Yes.</p> <p>19 A. -- or internally?</p> <p>20 Q. No, for the client.</p> <p>21 A. It depends on the client's needs. It depends</p> <p>22 on -- it depends on the client's needs. It varies.</p> <p>23 Q. Do you do it once a month for some clients?</p> <p>24 A. Yes.</p> <p>25 Q. And more often for other clients?</p>	<p style="text-align: right;">Page 67</p> <p>1 Q. So these payments here then from January</p> <p>2 through February that were for estimates that you</p> <p>3 prepared, then aren't those payments for pre-project work?</p> <p>4 MR. KRAUJA: Objection --</p> <p>5 MR. FLAGG: Form.</p> <p>6 MR. KRAUJA: -- form.</p> <p>7 Go ahead and answer.</p> <p>8 THE WITNESS: I'm sorry. Could you repeat</p> <p>9 that?</p> <p>10 BY MR. SANDEFUR:</p> <p>11 Q. These payments here that are before the</p> <p>12 approval by the county --</p> <p>13 A. Yes.</p> <p>14 Q. -- are those payments for pre-project work?</p> <p>15 MR. FLAGG: Same objection.</p> <p>16 MR. KRAUJA: Objection; form.</p> <p>17 Go ahead and answer if you can.</p> <p>18 THE WITNESS: I'm assuming this is included in</p> <p>19 an invoice. And if that is the case, then yes.</p> <p>20 BY MR. SANDEFUR:</p> <p>21 Q. So is it the case that the county paid you for</p> <p>22 the services you had rendered in preparing estimates</p> <p>23 before it approved the contract?</p> <p>24 MR. KRAUJA: Objection; form.</p> <p>25 MR. FLAGG: Form.</p>

## **Exhibit 2**

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA

IN AND FOR THE COUNTY OF PIMA

RICHARD RODGERS; SHELBY	)	
MAGNUSON-HAWKINS; and DAVID	)	
PRESTON,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	No. C20161761
	)	
CHARLES H. HUCKELBERRY, in his	)	
official capacity as County	)	
Administrator of Pima County;	)	
SHARON BRONSON, RAY CARROLL,	)	
RICHARD ELIAS, ALLYSON MILLER,	)	
and RAMON VALADEZ, in their	)	
official capacities as members	)	
of the Pima County Board of	)	
Supervisors; PIMA COUNTY, a	)	
political subdivision of the	)	
State of Arizona,	)	
	)	
Defendants.	)	
_____	)	

DEPOSITION OF CHARLES HUCKELBERRY

Tucson, Arizona  
April 6, 2018  
8:27 a.m.

REPORTED BY:  
Thomas A. Woppert, RPR  
AZ CCR No. 50476

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KATHY FINK & ASSOCIATES  
2819 East 22nd Street  
Tucson, Arizona 85713  
(520)624-8644

<p style="text-align: right;">Page 24</p> <p>1 county's best interest to stick with them going forward;  2 is that right.  3 MR. FLAGG: Form.  4 THE WITNESS: No. HDR was the  5 architect/engineer.  6 BY MR. SANDEFUR:  7 Q. I'm sorry. I thought that's what I said.  8 MR. FLAGG: You said builder.  9 MR. SANDEFUR: Oh, okay.  10 BY MR. SANDEFUR:  11 Q. So HDR was the architect of the original  12 project and that because of their knowledge of the  13 project, you thought it was sensible to keep them on the  14 project since they knew about it; is that right?  15 A. That's correct.  16 Q. Is this something like what you had in mind in  17 the World View project when selecting Barker Morrissey and  18 Swaim for the World View project?  19 MR. FLAGG: Form.  20 THE WITNESS: Similar.  21 BY MR. SANDEFUR:  22 Q. So meaning that they had a lot of advance  23 knowledge of the project?  24 A. Yes.  25 Q. And so you thought it was in the county's best</p>	<p style="text-align: right;">Page 26</p> <p>1 selection and contracting negotiations. What was the next  2 step after your approval of this?  3 A. It was their selection through procurement and  4 contract negotiations to negotiate the price for the  5 specific work requested.  6 Q. Okay. Do you know whether a document like this  7 was prepared in the case of Swaim in the World View  8 project?  9 MR. FLAGG: Form.  10 THE WITNESS: A document like this? Probably  11 not.  12 BY MR. SANDEFUR:  13 Q. And do you know whether a document like this  14 was prepared for the selection of Barker Morrissey in the  15 World View project?  16 MR. FLAGG: Form.  17 THE WITNESS: I don't know.  18 BY MR. SANDEFUR:  19 Q. In this case, it looks like the county reviewed  20 whether to pick HDR from the list of -- the QCL list that  21 you mentioned and then proceeded to negotiate with HDR  22 over whether HDR would provide the services. Is that  23 right?  24 A. No. They were selected to provide the services  25 and the price of those services were negotiated.</p>
<p style="text-align: right;">Page 25</p> <p>1 interest to stick with them since they had that much  2 information?  3 A. That was one of the reasons.  4 Q. What was the other reason?  5 A. That they had demonstrated a track record they  6 could deliver the project in the time limits required.  7 Q. So do you remember --  8 I already asked that question.  9 This central laboratory complex, was that a  10 county construction project?  11 A. No.  12 Q. Now, it says at the bottom here your approval  13 of this request is required for procurement to begin -- to  14 proceed with QCL selection and contracting negotiations.  15 What does that mean?  16 A. That means that HDR was on the QCL list, but  17 they needed to be selected in order to do this work.  18 Q. When you say selected, what do you mean by  19 that?  20 A. It means that they were one of probably five  21 different architect/engineering firms on the QCL list and,  22 therefore, because of their prior knowledge, rather than  23 go out and solicit all five and ask for proposals from all  24 five, HDR was selected.  25 Q. Okay. And it says here to proceed with QCL</p>	<p style="text-align: right;">Page 27</p> <p>1 Q. I see.  2 Did you negotiate the price of the services  3 that were provided by Swaim prior to January 2016?  4 MR. FLAGG: Form.  5 THE WITNESS: Did I?  6 BY MR. SANDEFUR:  7 Q. Or anyone in your office.  8 A. Not to my knowledge. We did not.  9 Q. And did you or anyone in your office negotiate  10 the price of the services to be provided by Barker  11 Morrissey prior to January of 2016?  12 A. I don't -- not to my knowledge.  13 Q. Did you approve procurement -- I assume  14 procurement is the department in this memo here. Did you  15 approve procurement proceeding with Barker Morrissey in  16 the World View situation?  17 A. And Swaim?  18 Q. Yeah.  19 A. Yes, I did.  20 Q. And when was that?  21 A. On January 19th.  22 Q. Of 2016?  23 A. 2016.  24 Q. Okay. We'll move on to the next document here.  25 (Deposition Exhibit 8 marked for identification)</p>

<p style="text-align: right;">Page 28</p> <p>1 BY MR. SANDEFUR:</p> <p>2 Q. And this one is dated February 14th, 2013. Did</p> <p>3 you sign this?</p> <p>4 A. Yes, I did.</p> <p>5 Q. Do you recall this one?</p> <p>6 A. No.</p> <p>7 Q. And it seems to say that there needed to be</p> <p>8 some modifications to this building here. Is that how you</p> <p>9 read it there. That's, I think, in the second paragraph.</p> <p>10 A. I believe that's correct.</p> <p>11 Q. And in that second paragraph, it says DPR</p> <p>12 Construction is the contractor who built the facility and</p> <p>13 they were asked to come in and correct defects, and then</p> <p>14 they discovered some other things that needed to be done;</p> <p>15 is that right?</p> <p>16 A. That's what it says, yes.</p> <p>17 Q. And so was this a request to go with DPR</p> <p>18 because they had that knowledge from building the original</p> <p>19 facility?</p> <p>20 A. It was probably because they were already in</p> <p>21 the facility building it and modifying it. And this</p> <p>22 probably came from, as you can see at the top, a</p> <p>23 co-compliance survey done by a health agency.</p> <p>24 Q. So would you say that this is similar to the</p> <p>25 last one that we looked at in that you had, you know, a</p>	<p style="text-align: right;">Page 30</p> <p>1 View situation, though, there was no original facility;</p> <p>2 right? This was the construction of a new facility;</p> <p>3 right?</p> <p>4 A. That's correct.</p> <p>5 Q. Was one of these kind of reports like this one</p> <p>6 that we're looking at here ever prepared in the World View</p> <p>7 situation?</p> <p>8 MR. FLAGG: Form.</p> <p>9 THE WITNESS: Not to my knowledge.</p> <p>10 BY MR. SANDEFUR:</p> <p>11 Q. Did you ever consider any alternatives to Swaim</p> <p>12 or Barker Morrissey for this project?</p> <p>13 A. During the development of the project and up to</p> <p>14 January 16th, 19th --</p> <p>15 MR. FLAGG: 19th.</p> <p>16 THE WITNESS: -- 19th, 2016, no.</p> <p>17 MR. SANDEFUR: Let's look at another one of</p> <p>18 these memos here.</p> <p>19 (Deposition Exhibit 9 marked for identification)</p> <p>20 BY MR. SANDEFUR:</p> <p>21 Q. This one is dated September 2014. Did you sign</p> <p>22 this?</p> <p>23 A. Yes, I did.</p> <p>24 Q. Do you remember this one?</p> <p>25 A. Not really.</p>
<p style="text-align: right;">Page 29</p> <p>1 company that was familiar with the project already, and so</p> <p>2 because of their existing knowledge, it just made sense to</p> <p>3 stick with that company?</p> <p>4 MR. FLAGG: Form.</p> <p>5 THE WITNESS: If you had a contractor in place</p> <p>6 who was finishing work, it only made sense to use that</p> <p>7 contractor rather than trying to bring in another</p> <p>8 contractor.</p> <p>9 BY MR. SANDEFUR:</p> <p>10 Q. And why is that?</p> <p>11 A. Just simply because of efficiency and confusion</p> <p>12 between the two contractors.</p> <p>13 Q. Would you say that that's common, that the</p> <p>14 county will keep the original contractor on a project</p> <p>15 because they're the ones that know it best?</p> <p>16 A. It depends on the case.</p> <p>17 Q. Are there cases when you would not stick with</p> <p>18 the original contractor even though they had superior</p> <p>19 knowledge?</p> <p>20 A. If the contract's been completed and closed,</p> <p>21 you may not stay with that same contractor.</p> <p>22 Q. Now, in this case, if I understand right from</p> <p>23 reading it, this is a case where DPR Construction built</p> <p>24 the original facility, and the last one we looked at, HDR</p> <p>25 was the architect on the original facility. In the World</p>	<p style="text-align: right;">Page 31</p> <p>1 Q. I'll just give you a moment to look it over.</p> <p>2 Now, in looking it over myself, it looks like</p> <p>3 it's involving upgrading the parking lot payment systems;</p> <p>4 is that right?</p> <p>5 A. Yes. Generally parking lot systems probably</p> <p>6 has a lot more to do with payments, accounting, tracking,</p> <p>7 crediting, all sorts of transactions really to multiple</p> <p>8 county garages.</p> <p>9 Q. Yeah, I parked in a county garage myself this</p> <p>10 morning and there was a thing where I had to press a</p> <p>11 button to get the ticket out. And this is kind of</p> <p>12 involving that sort of thing; right?</p> <p>13 A. Yes.</p> <p>14 Q. Now, in the second paragraph, it says, WPS</p> <p>15 Parking Systems was selected for the PSC garage through a</p> <p>16 competitive bid process which identified a number of</p> <p>17 approved system manufacturers.</p> <p>18 And then it says in the -- it goes on to say,</p> <p>19 D.H. Pace was the low bid subcontractor who represents WPS</p> <p>20 Parking Systems, and then, in the next paragraph, verifies</p> <p>21 that D.H. Pace is the only authorized dealer and installer</p> <p>22 for WPS Parking Systems; is that right?</p> <p>23 A. That's what it says, yes.</p> <p>24 Q. So it seems like what happened was, and correct</p> <p>25 me if I'm wrong, WPS Parking Systems was chosen through</p>

<p style="text-align: right;">Page 36</p> <p>1 BY MR. SANDEFUR:</p> <p>2 <b>Q. Do you recognize this one?</b></p> <p>3 A. I recognize it's a memo between our staff and I</p> <p>4 okayed it, yes.</p> <p>5 <b>Q. And in the second paragraph, the first</b></p> <p>6 <b>sentence, it says, an undertaking of this nature requires</b></p> <p>7 <b>an elevated skill of preplanning, coordination and</b></p> <p>8 <b>expertise as the consequences of not meeting the schedule</b></p> <p>9 <b>can be considerable.</b></p> <p>10 <b>Can you tell me what that means?</b></p> <p>11 MR. FLAGG: Form.</p> <p>12 THE WITNESS: Well, in the case of the</p> <p>13 transformer and chiller replacement, it means that</p> <p>14 buildings would not have air-conditioning.</p> <p>15 BY MR. SANDEFUR:</p> <p>16 <b>Q. And would that qualify as an emergency.</b></p> <p>17 A. It would qualify as -- as probably an</p> <p>18 emergency, yes.</p> <p>19 <b>Q. Would you say that the kind of urgency at issue</b></p> <p>20 <b>here was different than the kind of urgency that was at</b></p> <p>21 <b>issue in the World View case or was it the same?</b></p> <p>22 A. Urgency. Could you explain urgency?</p> <p>23 <b>Q. Well, you said that in this case, it was urgent</b></p> <p>24 <b>to get this done quickly because, otherwise, you wouldn't</b></p> <p>25 <b>have air-conditioning, and I understood you to say that in</b></p>	<p style="text-align: right;">Page 38</p> <p>1 included in the board of supervisor's transmittal memo and</p> <p>2 they are the ones who have to make the decision and final</p> <p>3 approval of those actions.</p> <p>4 <b>Q. In these cases, they didn't make the final</b></p> <p>5 <b>approval; is that right?</b></p> <p>6 A. In these cases, they did not.</p> <p>7 <b>Q. Okay.</b></p> <p>8 A. And they subsequently may have by contract</p> <p>9 ratification or approvals. In almost all cases they would</p> <p>10 have.</p> <p>11 <b>Q. So -- well, let's move on from there.</b></p> <p>12 <b>(Deposition Exhibit 11 marked for identification)</b></p> <p>13 BY MR. SANDEFUR:</p> <p>14 <b>Q. Do you recognize this document?</b></p> <p>15 A. Yes. It's another county memorandum.</p> <p>16 <b>Q. And it's dated October 6, 2014; right?</b></p> <p>17 A. That's correct.</p> <p>18 <b>Q. And on the cover of the memo, it says, this</b></p> <p>19 <b>does not meet the specifics necessary to approve as a sole</b></p> <p>20 <b>source, and based upon the justification may be more</b></p> <p>21 <b>appropriately processed under the procurement code,</b></p> <p>22 <b>specifically emergency and other limited competition</b></p> <p>23 <b>procurement.</b></p> <p>24 <b>Do you know what that means?</b></p> <p>25 A. What it probably means is that the department</p>
<p style="text-align: right;">Page 37</p> <p>1 <b>the World View situation, there was a deadline that needed</b></p> <p>2 <b>to be met, so would you say that that was a similar</b></p> <p>3 <b>situation to this one?</b></p> <p>4 A. No.</p> <p>5 <b>Q. Why not?</b></p> <p>6 A. In this case, it's really talking about</p> <p>7 planning for continuing air-conditioning services in a</p> <p>8 public building. In the World View case, it's talking</p> <p>9 about meeting a deadline as a condition of economic</p> <p>10 expansion.</p> <p>11 <b>Q. And when it says here an elevated level of</b></p> <p>12 <b>preplanning, coordination and expertise, do you think that</b></p> <p>13 <b>in the World View case there was a need for preplanning,</b></p> <p>14 <b>coordination and expertise -- I mean, an unusual need for</b></p> <p>15 <b>preplanning, coordination and expertise in that case?</b></p> <p>16 A. Yes.</p> <p>17 <b>Q. Was it your view that -- when working on the</b></p> <p>18 <b>World View project, was it your view that the consequences</b></p> <p>19 <b>of not completing the construction for World View by</b></p> <p>20 <b>November of 2016 were considerable?</b></p> <p>21 A. Yes.</p> <p>22 <b>Q. If that's the case, why did you not go through</b></p> <p>23 <b>the process of preparing a memo like this with regard to</b></p> <p>24 <b>Swaim or Barker Morrissey?</b></p> <p>25 A. The memorandum and analysis came and is</p>	<p style="text-align: right;">Page 39</p> <p>1 director requesting the no substitute was reviewed by the</p> <p>2 procurement director who said the procurement would more</p> <p>3 appropriately fall under another category.</p> <p>4 <b>Q. So we talked earlier about how there's the</b></p> <p>5 <b>emergency category and there's the public interest</b></p> <p>6 <b>category. And you're saying that this memo says that this</b></p> <p>7 <b>falls in the emergency category and not the public</b></p> <p>8 <b>interest category?</b></p> <p>9 MR. FLAGG: Form.</p> <p>10 THE WITNESS: This memo says that the</p> <p>11 procurement director says it more appropriately falls</p> <p>12 under the emergency procurement and other limited</p> <p>13 competition.</p> <p>14 BY MR. SANDEFUR:</p> <p>15 <b>Q. So can you say what factors go into</b></p> <p>16 <b>distinguishing between an emergency and the other kinds of</b></p> <p>17 <b>limited procurement?</b></p> <p>18 A. I think they're all different. You have to</p> <p>19 individually look at every case.</p> <p>20 <b>Q. And when you look individually at every case,</b></p> <p>21 <b>do you have a set of criteria or rules that you consult?</b></p> <p>22 A. You consult the codes.</p> <p>23 <b>Q. And by the code, you mean the county and the</b></p> <p>24 <b>state law?</b></p> <p>25 A. Correct.</p>

1 **Q. And at the beginning of paragraph three, it**  
 2 **says, I suggested World View should conduct conceptual**  
 3 **land use and site development planning and perhaps work**  
 4 **with Architect Phil Swaim.**

5 **Did you make that suggestion?**

6 A. Yes.

7 **Q. Why did you suggest they work with Phil Swaim?**

8 A. I believe that Phil Swaim had already been  
 9 working with them through PICOR and that in developing  
 10 this new, unique manufacturing facility, it had certain  
 11 parameters that obviously needed to be better defined in  
 12 order to determine size and scope of the building and what  
 13 the building needed to do to be their headquarters for  
 14 manufacturing.

15 **Q. When you say that they were already working**  
 16 **with Swaim through PICOR, what are you referring to?**

17 A. I'm referring to what -- we believed that Phil  
 18 Swaim had already been -- PICOR was the realty  
 19 representative for World View and my -- my guess is that  
 20 PICOR recognized the fact that you have to have some  
 21 fundamental understanding of what you're going to need for  
 22 a manufacturing facility, and that comes through  
 23 programming associated with the qualified architect. And  
 24 Phil Swaim was a pretty well known architect and  
 25 probably -- my guess is PICOR wanted Phil Swaim to work

1 with them.

2 **Q. This relationship between Swaim and World View,**  
 3 **was that with regard to renovating the TIA hangars?**

4 A. I don't know whether they were brought in on  
 5 the renovation of the -- of those hangars.

6 **Q. What led you to believe that Swaim and World**  
 7 **View had a pre-existing relationship?**

8 A. Simply it probably came from conversations that  
 9 some of our staff had with World View and perhaps Mike  
 10 Hammond of PICOR.

11 **Q. Did you discuss that they work with any other**  
 12 **architects?**

13 A. No.

14 **Q. Why not?**

15 A. Well, simply if they had a previous arrangement  
 16 with a highly qualified architect, I wasn't going to  
 17 interfere with it.

18 **Q. And this project here that you're talking about**  
 19 **in this August 2015 memo, was this focused on creating a**  
 20 **building for balloon manufacturing?**

21 A. Yes.

22 **Q. And this was the second phase of the project?**  
 23 **You mentioned that there were two phases. Was this the**  
 24 **second phase of the project?**

25 A. No, there was the first phase, which was the

1 false start with the old Tucson Airport Authority hangars,  
 2 and that was trying to retrofit an existing building.  
 3 This was a phase that began, again, in July or August of  
 4 2015 for a new building.

5 **Q. Did you suggest that World View contact Barker**  
 6 **Morrissey in August of 2015?**

7 A. No.

8 **Q. Do you know when that suggestion was made?**

9 A. I think that suggestion was made in -- what I  
 10 understand, was made by Phil Swaim, who had experience  
 11 with Barker Morrissey as a contractor associated with the  
 12 type of manufacturing facility and type of steel frame  
 13 construction and suggested that they be engaged mostly for  
 14 the purpose of cost estimating and determining what is  
 15 typically in the vernacular of contractors and architects  
 16 constructability analysis associated with a new building.

17 **Q. So you're saying Swaim had this pre-existing**  
 18 **relationship with Barker Morrissey and that they were the**  
 19 **ones that suggested that Barker Morrissey might be a good**  
 20 **contractor for this project?**

21 A. That's my understanding.

22 **Q. Did you ever recommend any other contractor for**  
 23 **the project?**

24 A. No.

25 **Q. Why not?**

1 A. Again, it was -- if -- if they were performing  
 2 the work satisfactory to the client, in this case, it  
 3 would have been World View or PICOR, I didn't have any  
 4 reason to interfere knowing that the contractor in the  
 5 case of Barker Morrissey was well qualified.

6 **Q. At any time between August of 2014 and January**  
 7 **of 2016, did you ever suggest another architect other than**  
 8 **Swaim for the project?**

9 A. No.

10 **Q. Did you ever suggest another contractor than**  
 11 **Barker Morrissey during that period?**

12 A. No.

13 **Q. And was that for the same reasons you just**  
 14 **gave?**

15 A. Correct.

16 **Q. We'll move to the next document here.**  
 17 **(Deposition Exhibit 19 marked for identification)**

18 BY MR. SANDEFUR:

19 **Q. These are some handwritten notes dated**  
 20 **August 20th, 2015. Do you know whose handwriting that is?**

21 A. No. You can tell me.

22 **Q. We talked to John Moffatt and it was his.**

23 A. Okay.

24 **Q. And it looks like some memorialization of a**  
 25 **meeting or a conference call; is that right?**



1 representing World View at any meetings we would have had.  
 2 **Q. And on the second page, it says, please review**  
 3 **the financing mechanisms available to the county and ask**  
 4 **the procurement director to make recommendations regarding**  
 5 **a possible contract with Swaim & Associates for World View**  
 6 **architectural services.**

7 **What does that mean?**

8 A. That simply means that as this project moves  
 9 forward and if there is an acceptance of an offer that  
 10 we've previously made to World View that we would then  
 11 need to proceed to finance the improvements and then  
 12 convert the -- the architect to a contract with the county  
 13 to complete the work in building a county facility.

14 **Q. So when you wrote this memo in November of**  
 15 **2015, was it your intention that the county select Swaim**  
 16 **as the project architect?**

17 A. Yes.

18 **Q. At this time did you believe that World View**  
 19 **needed the project completed by November of 2016?**

20 A. Yes.

21 **Q. Did you make any effort to find out whether**  
 22 **another architect could complete the project before**  
 23 **November of 2016?**

24 A. No.

25 **Q. Did you make any effort to find out whether any**

1 **these little numbers here, where it says selection of**  
 2 **project architect and contractor --**

3 A. Yes.

4 **Q. -- it says, during the recruitment process, and**  
 5 **it goes on. It says here, the county initially selected**  
 6 **Swaim Associates with Phil Swaim as the lead architect.**  
 7 **And then below that, it says, Barker Morrissey was**  
 8 **selected during the proposal development process.**

9 **How did that selection -- first of Swaim, how**  
 10 **did the selection of Swaim occur exactly?**

11 A. Well, the selection of Swaim in this case would  
 12 have been basically upon the board's acceptance of the --  
 13 of the -- of the proposal and the contract says were  
 14 recommended. And what was developed was this -- again,  
 15 the phasing of Phil Swaim as the architect from PICOR to  
 16 World View to us in his knowledge of the design of the  
 17 building. It was in -- in our view, in my view, the only  
 18 reasonable way to proceed and select him as the project  
 19 architect, which was recommended to the board based on the  
 20 procurement processes identified in the memo because to do  
 21 otherwise, the deadline to deliver the facility could not  
 22 be met.

23 **Q. Now, it says the county initially selected**  
 24 **Swaim & Associates. What selection are you referring to**  
 25 **there?**

1 **other contractor could complete the project before**  
 2 **November 2016?**

3 A. No.

4 **Q. Next document here.**  
 5 **(Deposition Exhibit 21 marked for identification)**  
 6 **BY MR. SANDEFUR:**

7 **Q. Do you recognize this document?**

8 A. Yes.

9 **Q. And this is a letter dated December 23rd, 2015.**  
 10 **Down at the bottom of the first page, there's this kind of**  
 11 **long paragraph and it starts out with, World View accepts**  
 12 **the Pima County proposal.**

13 **What proposal is that referring to?**

14 A. The proposal is a letter that I sent to them  
 15 on, I think, October 23rd.

16 **Q. And below that toward the end of the paragraph,**  
 17 **it says, we agree that Swaim Associates will be the**  
 18 **architect and Barker Morrissey the builder; is that right?**

19 A. That's correct.

20 **Q. So was it your suggestion that Swaim &**  
 21 **Associates be the architect and Barker Morrissey be the**  
 22 **building in that October thing you just referred to?**

23 A. It was -- generally, yes.

24 **Q. I'm going to go back to this January 19th,**  
 25 **2016, memo that's Exhibit 16. And on page 39, following**

1 A. It's probably worded poorly, but the county  
 2 selected or would select Swaim & Associates based on their  
 3 prior knowledge of the specific design of this building  
 4 and their relationships with PICOR and World View.

5 **Q. So you're saying that when it says here the**  
 6 **county initially selected Swaim & Associates, that's not**  
 7 **correct?**

8 A. It should say the county will select Swaim &  
 9 Associates based on their experience and history with the  
 10 project.

11 **Q. And below that, it says, Barker Morrissey was**  
 12 **selected during the proposal development process.**

13 **When exactly was Barker Morrissey selected?**

14 A. Selected based on the performance that Barker  
 15 Morrissey had with regard to project estimating and  
 16 contracting and constructability analysis that worked  
 17 through those six months again gained the confidence that  
 18 that particular contractor should be selected under  
 19 contractor manager at risk to complete the building.

20 **Q. Okay. But it says Barker Morrissey was**  
 21 **selected during the proposal development process. When**  
 22 **was it selected?**

23 A. It wasn't. It was -- you know, again, probably  
 24 poor wording, but Barker Morrissey -- it became obvious  
 25 that in working hand in hand with the architect, which is

<p style="text-align: right;">Page 72</p> <p>1 required in a construction manager at risk contract, would 2 be the only logical contractor to be selected.</p> <p>3 <b>Q. When was Barker Morrissey selected as the</b> 4 <b>construction manager at risk?</b></p> <p>5 A. On the 19th of January.</p> <p>6 <b>Q. And it says here that -- in that first</b> 7 <b>paragraph that we were talking about, it says that Swaim</b> 8 <b>worked on a project for the University of Arizona which</b> 9 <b>included complex laboratory, aerospace and science</b> 10 <b>facilities.</b></p> <p>11 <b>Do you know what project that was?</b></p> <p>12 A. I think it was the bioscience five building, 13 but I'm not sure.</p> <p>14 <b>Q. And how was that similar to the Word View</b> 15 <b>project?</b></p> <p>16 A. It's a technical building and it basically 17 requires -- you know, in the case of laboratories and 18 other factors. In the World View building, there are 19 environments that are very similar.</p> <p>20 <b>Q. In what way?</b></p> <p>21 A. They're required to have certain safety 22 requirements, cleanliness, clean, you know, just, again, a 23 scientific manufacturing facility.</p> <p>24 <b>Q. Well, it seems a little odd to me because it</b> 25 <b>says that it was a medical facility at the University of</b></p>	<p style="text-align: right;">Page 74</p> <p>1 <b>Do you see that there?</b></p> <p>2 A. Yes.</p> <p>3 <b>Q. And how are those similar to the World View</b> 4 <b>project?</b></p> <p>5 A. Again, they're -- they're technical 6 manufacturing facilities.</p> <p>7 <b>Q. Can you be more specific about their</b> 8 <b>similarities?</b></p> <p>9 A. Texas Instruments is probably circuit boards, 10 things of that nature. It's just -- again, it's -- it's 11 high tech manufacturing requiring some attention to detail 12 with regard to, you know, delivering a building that's 13 more than just simply a commercial standard manufacturing 14 building.</p> <p>15 <b>Q. Was there any time prior to January of 2016</b> 16 <b>when you discussed with Barker Morrissey their expertise</b> 17 <b>in constructing high tech manufacturing facilities?</b></p> <p>18 A. Those conversations I believe were undertaken 19 with -- by my staff.</p> <p>20 <b>Q. Do you know whether there are any other</b> 21 <b>construction -- contractors, I mean, in the county that</b> 22 <b>build high tech manufacturing facilities?</b></p> <p>23 A. I do not know.</p> <p>24 <b>Q. Do you know whether there are any other</b> 25 <b>architects in the county that construct laboratory space?</b></p>
<p style="text-align: right;">Page 73</p> <p>1 <b>Arizona, but the construction of the balloon isn't a</b> 2 <b>medical facility; right?</b></p> <p>3 MR. FLAGG: Form.</p> <p>4 THE WITNESS: Generally you have to have the 5 same principles. You have to have clean environments, you 6 have to have basically meticulous handling of the 7 materials involved.</p> <p>8 BY MR. SANDEFUR:</p> <p>9 <b>Q. Can you be more specific than that?</b></p> <p>10 A. It's -- you have chambers that are going to be 11 constructed in the building that represent high altitude, 12 low pressure, low temperature environments, so --</p> <p>13 <b>Q. Do you have those at a medical facility?</b></p> <p>14 A. Yes.</p> <p>15 <b>Q. At the medical facility at the University of</b> 16 <b>Arizona?</b></p> <p>17 A. I don't know. I'm sure they are.</p> <p>18 <b>Q. Do you know whether Swaim constructed any high</b> 19 <b>altitude simulation facilities?</b></p> <p>20 MR. FLAGG: Form.</p> <p>21 THE WITNESS: I don't.</p> <p>22 BY MR. SANDEFUR:</p> <p>23 <b>Q. And it says a similar thing for Barker</b> 24 <b>Morrissey. It refers to the projects for Texas</b> 25 <b>Instruments and Sion Power.</b></p>	<p style="text-align: right;">Page 75</p> <p>1 A. I do not know, but in both cases, there 2 probably are.</p> <p>3 <b>Q. Did you make any effort to determine whether</b> 4 <b>any other expert constructors or expert architects were</b> 5 <b>available for this project?</b></p> <p>6 A. No, I did not.</p> <p>7 <b>Q. During your negotiations with Swaim and Barker</b> 8 <b>Morrissey in the summer of 2014, did you have any</b> 9 <b>conversations about when the project would need to be</b> 10 <b>completed?</b></p> <p>11 MR. FLAGG: Did you say 2014?</p> <p>12 MR. SANDEFUR: 2015 is what I meant to say. 13 Sorry.</p> <p>14 THE WITNESS: Yeah.</p> <p>15 In the early stages, no.</p> <p>16 BY MR. SANDEFUR:</p> <p>17 <b>Q. When did that come up?</b></p> <p>18 A. My guess is it came up sometime after the 19 initial discussions, which would have occurred in January 20 or August, but it's probably fairly certain that Mike 21 probably -- September, October, there was pretty much 22 knowledge that it had to be delivered by November of '16.</p> <p>23 <b>Q. You're saying September or October --</b></p> <p>24 A. It was in that range. I think from the very -- 25 you know, early on it was, I believe, discussed that the</p>

<p style="text-align: right;">Page 84</p> <p>1 A. It may have been during that process to try and</p> <p>2 zero in on the total cost. And my guess is it might have</p> <p>3 been in the September range.</p> <p>4 <b>Q. Do you know whether that was in writing</b></p> <p>5 <b>anywhere?</b></p> <p>6 A. Not that I know of. I -- I know what it was</p> <p>7 because that's what the number is.</p> <p>8 <b>Q. And what was the number that you gave them as</b></p> <p>9 <b>the bottom line price?</b></p> <p>10 A. Really about -- initially we thought no more</p> <p>11 than \$15 million and 14.5 in the building.</p> <p>12 <b>Q. And where did you get that number?</b></p> <p>13 A. It was just based on what we thought the square</p> <p>14 footage of the facility would be and what it would be in</p> <p>15 the marketplace if constructed new, meaning they said they</p> <p>16 needed a building of 120 or 130,000 square feet and part</p> <p>17 of it was manufacturing and part of it was technology and</p> <p>18 another part was, you know, high bay and some lab space,</p> <p>19 and then when you basically put some numbers conceptually</p> <p>20 to that cost, you arrive at an upset number.</p> <p>21 <b>Q. And who did that calculation?</b></p> <p>22 A. I think it's just based on, you know, what we</p> <p>23 knew was occurring in the marketplace for typical types of</p> <p>24 construction.</p> <p>25 <b>Q. When you say we, you mean you personally?</b></p>	<p style="text-align: right;">Page 86</p> <p>1 A. I don't recall saying that, no.</p> <p>2 <b>Q. Is this common for the county when it's</b></p> <p>3 <b>constructing a building as part of an economic development</b></p> <p>4 <b>project? Is that how its usually done?</b></p> <p>5 A. I would say yes. There's a common knowledge of</p> <p>6 construction costs per square foot depending on building</p> <p>7 type or facility or manufacturing and those are just rough</p> <p>8 rules of thumb that are used to estimate conceptual cost.</p> <p>9 <b>Q. So the 15 million dollar or thereabout number,</b></p> <p>10 <b>was that just a rule of thumb?</b></p> <p>11 A. It was a conceptual cost of what providing a</p> <p>12 building of that type and size would have been, yes.</p> <p>13 <b>Q. So if Barker Morrissey and Swaim had come to</b></p> <p>14 <b>you and said this is going to cost \$20 million, would you</b></p> <p>15 <b>have said that's too expensive?</b></p> <p>16 A. I don't know. That's something that we'd, you</p> <p>17 know, have to find out why it costs so much more.</p> <p>18 <b>Q. Does the board of supervisors create any</b></p> <p>19 <b>guidelines for your office in formulating those numbers?</b></p> <p>20 A. No.</p> <p>21 <b>Q. Have Barker Morrissey or Swaim been paid today</b></p> <p>22 <b>for any work that they did on the project prior to January</b></p> <p>23 <b>of 2016?</b></p> <p>24 A. Not to my knowledge.</p> <p>25 <b>Q. Do you think they will be?</b></p>
<p style="text-align: right;">Page 85</p> <p>1 A. Well, I would say it could have been myself, it</p> <p>2 could have been John Moffatt, it could have been, you</p> <p>3 know, just a combination of people saying what -- what</p> <p>4 would a building like this cost.</p> <p>5 <b>Q. Was that information given to you by World</b></p> <p>6 <b>View?</b></p> <p>7 A. No.</p> <p>8 <b>Q. So you're saying that World View said what we</b></p> <p>9 <b>want is balloon construction, launch pad, building of such</b></p> <p>10 <b>and such a size, and then your staff figured out what the</b></p> <p>11 <b>going market rate of a -- a construction -- a constructed</b></p> <p>12 <b>finished building of that type would be?</b></p> <p>13 MR. FLAGG: Form.</p> <p>14 THE WITNESS: In -- in general terms, yes.</p> <p>15 BY MR. SANDEFUR:</p> <p>16 <b>Q. And you did that within your office?</b></p> <p>17 A. Yes.</p> <p>18 <b>Q. Was the board of supervisors involved in that</b></p> <p>19 <b>calculation?</b></p> <p>20 A. No.</p> <p>21 <b>Q. Were any other consultants involved in that</b></p> <p>22 <b>calculation who weren't employed by the county?</b></p> <p>23 A. No.</p> <p>24 <b>Q. Did you say at some point that the plans were</b></p> <p>25 <b>too expensive for the county?</b></p>	<p style="text-align: right;">Page 87</p> <p>1 A. No.</p> <p>2 <b>Q. When did you decide to recommend to the county</b></p> <p>3 <b>board that Barker Morrissey be chosen as contractor?</b></p> <p>4 A. Sometime after December 23rd.</p> <p>5 <b>Q. And when did you decide to recommend that Swaim</b></p> <p>6 <b>be chosen as the architect?</b></p> <p>7 A. The same timeframe.</p> <p>8 <b>Q. We talked about the November 2016 deadline that</b></p> <p>9 <b>World View had for the project. When you were informed of</b></p> <p>10 <b>that, do you recall saying to them that that was</b></p> <p>11 <b>unrealistic?</b></p> <p>12 A. I don't recall saying that. I would have said</p> <p>13 it's a very tight timeframe, very difficult to meet.</p> <p>14 <b>Q. Did you do that?</b></p> <p>15 A. I don't know if I did or not.</p> <p>16 <b>Q. Do you remember whether you or anybody on your</b></p> <p>17 <b>staff pushed back against World View as far as their</b></p> <p>18 <b>deadlines were concerned?</b></p> <p>19 A. Not that I know of.</p> <p>20 <b>Q. Did you make any effort to find out whether</b></p> <p>21 <b>another contractor could have completed the project by</b></p> <p>22 <b>November 2016?</b></p> <p>23 A. No, we did not.</p> <p>24 <b>Q. Why not?</b></p> <p>25 A. Simply because it was our belief that bringing</p>

<p style="text-align: right;">Page 88</p> <p>1 in a new contractor to do what had already been  2 accomplished through either design or construction  3 estimating would have delayed the project to where the  4 deadline could not have been met.</p> <p>5 <b>Q. The reason I asked is because that's like a</b>  6 <b>year or almost a year. It's like 11 months. And I don't</b>  7 <b>know anything about contracting myself, but I would think</b>  8 <b>that you could build a building within 11 months. Am I</b>  9 <b>wrong about that?</b></p> <p>10 A. You're generally wrong about that. My guess is  11 when you look back at the building and delivering this  12 building in the timeframe it was, it's pretty much a  13 record setter. Most construction contracts on new  14 buildings is no sooner than typically 18 to 24 months.</p> <p>15 <b>Q. And with regard to Swaim, did you make any</b>  16 <b>effort to find out whether another architecture firm could</b>  17 <b>do the project before November of 2016?</b></p> <p>18 A. No, I did not.</p> <p>19 <b>Q. And why not?</b></p> <p>20 A. Simply because of their prior involvement in  21 understanding the programming of the -- of the needs for  22 the building and then the design. Again, bringing in  23 another architect would have meant that we would not have  24 been able to come close to meeting the deadline  25 established.</p>	<p style="text-align: right;">Page 90</p> <p>1 <b>construction projects that were rush jobs also that had a</b>  2 <b>tight deadline?</b></p> <p>3 A. Probably, but none that I recall.</p> <p>4 <b>Q. And the same question with Swaim. Have you</b>  5 <b>ever worked with another contractor on a rush job with a</b>  6 <b>tight deadline?</b></p> <p>7 MR. FLAGG: Form.</p> <p>8 Do you mean architect?</p> <p>9 MR. SANDEFUR: I meant Barker Morrissey  10 Contracting.</p> <p>11 BY MR. SANDEFUR:</p> <p>12 <b>Q. Have you worked with another contractor on a</b>  13 <b>rush job that had a tight deadline?</b></p> <p>14 A. That had a deadline similar to this, no.</p> <p>15 <b>Q. This memo that we've been talking about, the</b>  16 <b>January 19th, 2016, memo, did you share this with the</b>  17 <b>board of supervisors any time prior to the January 19th</b>  18 <b>meeting?</b></p> <p>19 A. Yes.</p> <p>20 <b>Q. When?</b></p> <p>21 A. Typically most of our materials go out about a  22 week early.</p> <p>23 <b>Q. Do you remember at the meeting Supervisor</b>  24 <b>Miller saying that she hadn't seen this memo until</b>  25 <b>January 15th, 2016?</b></p>
<p style="text-align: right;">Page 89</p> <p>1 <b>Q. Did you contact any architecture firms to find</b>  2 <b>out whether that was in fact the case or was that your</b>  3 <b>working assumption?</b></p> <p>4 A. That's my working assumption based on my  5 experience.</p> <p>6 <b>Q. Did you try to determine what amount of</b>  7 <b>competition would have been practical under these</b>  8 <b>circumstances with regard to the Swaim or Barker Morrissey</b>  9 <b>contracts?</b></p> <p>10 A. No, I did not.</p> <p>11 <b>Q. It says on this document -- this is this</b>  12 <b>January 2016 report to the board. It's a little bit out</b>  13 <b>of order, so this is the very last page, which is number</b>  14 <b>41. At the top of that page, it says that you've</b>  15 <b>determined that due to the compressed timeframe for design</b>  16 <b>and construction of the facility, compliance with the full</b>  17 <b>provisions of the statute is impracticable and contrary to</b>  18 <b>the public interest.</b></p> <p>19 <b>When you said impracticable, what did you mean</b>  20 <b>there?</b></p> <p>21 A. What I meant was that doing -- using a  22 conventional process, we would not have been able to meet  23 the deadlines established by World View as obtaining an  24 operational building.</p> <p>25 <b>Q. Have you worked with other architects on</b></p>	<p style="text-align: right;">Page 91</p> <p>1 A. I don't recall that.</p> <p>2 <b>Q. Do you know whether any member of the board was</b>  3 <b>given any of this information that's in this memo prior</b>  4 <b>to, let's say, a week before January 19th, 2016?</b></p> <p>5 A. No. Our process is, is our materials go to the  6 clerk, and then it's distributed to all the board.</p> <p>7 <b>Q. So between August of 2015 and January of 2016,</b>  8 <b>the information in this report was not known to the board?</b></p> <p>9 A. Generally, yes. In the specifics, yes.</p> <p>10 <b>Q. Did you --</b></p> <p>11 <b>Well, let's move on to the next document.</b>  12 <b>(Deposition Exhibit 22 marked for identification)</b></p> <p>13 BY MR. SANDEFUR:</p> <p>14 <b>Q. Are you familiar with this document?</b></p> <p>15 A. Yes. It looks like probably a draft  16 memorandum.</p> <p>17 <b>Q. So this is an earlier draft of what ended up</b>  18 <b>being the January 19th, 2016, memo?</b></p> <p>19 A. I would -- yes, it is.</p> <p>20 <b>Q. Did you write this?</b></p> <p>21 A. Yes.</p> <p>22 <b>Q. Can you say when this draft was prepared?</b></p> <p>23 A. No, I can't because -- it would have been  24 probably after the 23rd but before -- you know, probably a  25 week before the 16th.</p>

<p style="text-align: right;">Page 92</p> <p>1 Q. Okay. Not a fun way to spend your New Year's.</p> <p>2 A. No.</p> <p>3 Q. And you later revised this before it was final;</p> <p>4 is that right?</p> <p>5 A. That's correct.</p> <p>6 Q. Now, on page 4198, there's this paragraph here.</p> <p>7 And part of this is highlighted. Do you see that?</p> <p>8 A. Yes.</p> <p>9 Q. Did you highlight that?</p> <p>10 A. I don't know -- I don't believe I highlighted</p> <p>11 it. I may have highlighted it.</p> <p>12 Q. It says here -- the highlighted part says,</p> <p>13 discussed selection contracting method, and then in</p> <p>14 parentheses, to be completed by the procurement director</p> <p>15 with the appropriate justification for doing so.</p> <p>16 What does that mean?</p> <p>17 A. That means that typically I would have asked</p> <p>18 the procurement director to, you know, ensure or use the</p> <p>19 correct terminology with regard to the project selection</p> <p>20 methodologies and contracting.</p> <p>21 Q. Okay. Now, before that in that paragraph, it</p> <p>22 says that during the recruitment process to offer World</p> <p>23 View facilities that the county had to -- well, I'm sorry.</p> <p>24 It says it is necessary to quantify their exact</p> <p>25 architectural program and space needs. The county</p>	<p style="text-align: right;">Page 94</p> <p>1 your view that Swaim and Barker Morrissey should be</p> <p>2 selected?</p> <p>3 A. Yes.</p> <p>4 Q. And the reason for that was because of their</p> <p>5 prior involvement and detailed understanding of the</p> <p>6 requirements of the project?</p> <p>7 MR. FLAGG: Form.</p> <p>8 THE WITNESS: Yes, as stated in the memo in</p> <p>9 several places, even in the draft.</p> <p>10 MR. SANDEFUR: Let's look at this document</p> <p>11 here.</p> <p>12 (Deposition Exhibit 23 marked for identification)</p> <p>13 BY MR. SANDEFUR:</p> <p>14 Q. Well, before we get to that, I did have one</p> <p>15 other question about this previous document we looked at.</p> <p>16 The highlighted portion, did you fill in the</p> <p>17 highlighted portion or was that only done by another staff</p> <p>18 member?</p> <p>19 MR. FLAGG: This is in Exhibit 22?</p> <p>20 MR. SANDEFUR: Yeah.</p> <p>21 THE WITNESS: I would have filled it in.</p> <p>22 BY MR. SANDEFUR:</p> <p>23 Q. And you did so with information that was given</p> <p>24 to you by the procurement director?</p> <p>25 A. By the people who I asked to provide additional</p>
<p style="text-align: right;">Page 93</p> <p>1 initially selected Swaim Associates and Barker Morrissey</p> <p>2 Contracting. And then it says the two firms provided</p> <p>3 services without compensation to provide the architectural</p> <p>4 and design requirements. And then the next sentence says,</p> <p>5 because of their prior involvement and detailed</p> <p>6 understanding of World View requirements, the county, and</p> <p>7 you're saying that the board should approve this, will now</p> <p>8 select Swaim and Barker; is that right?</p> <p>9 MR. FLAGG: Form.</p> <p>10 THE WITNESS: That's correct.</p> <p>11 BY MR. SANDEFUR:</p> <p>12 Q. Do you know -- why does this paragraph make no</p> <p>13 reference to the deadline that World View had?</p> <p>14 A. Probably because it's contained in the previous</p> <p>15 sections of the memo.</p> <p>16 Q. And this section also makes no reference to</p> <p>17 Swaim or Barker Morrissey working on similar previous</p> <p>18 projects; right?</p> <p>19 A. Because I think it's probably previously</p> <p>20 explained in the memo.</p> <p>21 Q. So do you know when this part was completed,</p> <p>22 the highlighted part? Do you know when that was</p> <p>23 completed?</p> <p>24 A. No, I don't.</p> <p>25 Q. So when you wrote this draft, was it already</p>	<p style="text-align: right;">Page 95</p> <p>1 information so that I could correctly compile it and make</p> <p>2 the correct references.</p> <p>3 Q. Let's look at this Exhibit 23 here. And this</p> <p>4 is a memo that you wrote, and it's dated May 14th, 2016,</p> <p>5 is that right?</p> <p>6 A. That's correct.</p> <p>7 Q. And if we can look at the bottom of page 4577,</p> <p>8 the last paragraph here, it says, in any competitive</p> <p>9 process, the county would have initiated that it's likely</p> <p>10 Swaim and Barker Morrissey would have been selected given</p> <p>11 their prior uncompensated work helping to define the size,</p> <p>12 scope and extent of the facility required; is that right?</p> <p>13 A. Yes.</p> <p>14 Q. Would the county in your view have selected</p> <p>15 Swaim and Barker Morrissey for that reason?</p> <p>16 A. Typically part of the reasons for selecting</p> <p>17 professional consultants is the demonstrated knowledge</p> <p>18 they have on a particular project. Understanding the</p> <p>19 scope and the requirements and given their extensive</p> <p>20 knowledge, more than likely, yes.</p> <p>21 Q. Do you mean that if another architect or</p> <p>22 another contractor had come in and said, we can do this</p> <p>23 project faster and cheaper, you would have still chosen to</p> <p>24 go with Swaim and Barker Morrissey because of their prior</p> <p>25 work?</p>

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1 A. No, probably not.

2 Q. So just to make sure I have this all in my head

3 right, you recommended that Swaim and Barker Morrissey and

4 World View work together as far back as August 2015;

5 right?

6 A. Excuse me. Would you repeat the question?

7 Q. You recommended that World View consult with

8 Swaim and Barker Morrissey as far back as August of 2015;

9 right?

10 MR. FLAGG: Form.

11 THE WITNESS: Well, I believe they were already

12 consulting with World View at that time.

13 BY MR. SANDEFUR:

14 Q. And they worked on the project from that point

15 until January 2016 when you prepared the memorandum to the

16 board -- or maybe December -- when you prepared this

17 memorandum to the board; right?

18 A. Correct.

19 Q. And they did all that for free?

20 A. I assume so, yes. I don't know if they were

21 paid.

22 Q. Okay. And during that time, no other architect

23 was consulted; is that right?

24 A. I believe that to be true, yes.

25 Q. And no other contractor was consulted?

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1 A. Correct.

2 Q. And then after a year and a half or two years

3 or however long it was of these repeated estimates and

4 revisions to the plans, the county on your recommendation

5 chose the architect and the contractor that you had

6 selected?

7 A. Yes. And I believe the timeframe is probably

8 about three months.

9 Q. Three months between November of 2015 and

10 January of 2016?

11 A. Yes.

12 Q. I had a few things that I meant to get to on

13 some of the previous questions we had.

14 We were talking about the QCL list. Why -- if

15 there is a reason, maybe there isn't a reason -- but why

16 is Barker Morrissey not on the QCL list?

17 MR. FLAGG: Form.

18 THE WITNESS: I don't know if -- it's a

19 qualified consultants list. Barker Morrissey is a

20 contractor, not a consultant, so there's a difference

21 between selecting design professionals and consultants and

22 one for contractors. So to be on a QCL list for

23 professionals, you've got to be a professional. You've

24 got to be an architect or an engineer.

25 ///

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1 BY MR. SANDEFUR:

2 Q. And the same holds for Swaim? That's why

3 they're not on the list?

4 A. I assume so.

5 Q. Okay.

6 A. Or, you know, they have to apply to be on the

7 list.

8 Q. Okay. So when World View -- in August of 2015,

9 when they were -- you said, I think, they were already

10 working with Swaim; is that right?

11 A. As far as I know, yes.

12 Q. So when they came, you didn't need to go to the

13 QCL list for an architect because World View already had

14 an architect?

15 MR. FLAGG: Form.

16 THE WITNESS: World View was working with an

17 architect.

18 BY MR. SANDEFUR:

19 Q. Okay. And --

20 A. And I believe Swaim's probably on the QCL list.

21 Q. You mentioned that they're an old firm that's

22 been here for a long time; right?

23 A. Uh-huh.

24 Q. And you said that it was started by Mr. Swaim's

25 father?

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1 A. Yes.

2 Q. Did you know Mr. Swaim's father?

3 A. Yes, I did.

4 Q. And how well?

5 A. I just know that he was an architectural

6 professional in the community.

7 Q. Did you work with him on any projects?

8 A. Probably. Again, with the county a long time,

9 so likely, yes.

10 Q. How long?

11 A. Forty years.

12 Q. Was there a point at which you could have

13 suggested another architect to World View?

14 MR. FLAGG: Foundation.

15 THE WITNESS: Had -- had World View had another

16 architect in mind, certainly.

17 BY MR. SANDEFUR:

18 Q. But, I mean, they already had Swaim working

19 with them. Could you have said to them, hey, I know

20 another architect you might prefer?

21 A. Could I have said that? I could have. I

22 probably wouldn't have.

23 Q. And the same with Barker Morrissey?

24 A. The same, yes.

25 MR. SANDEFUR: I think that's all the questions

FURTHER EXAMINATION

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BY MR. SANDEFUR:

**Q. I have a couple little things.**

**You said that some contracts are done by the procurements director and some are by the board. Is that contracts over a certain dollar amount have to go to the board?**

A. Yes.

**Q. And what is that dollar amount?**

A. It depends on whether -- it depends on the type of procurement, but it's usually -- some are 50, some are 250,000, so I just have to read the code.

**Q. Yeah. But it's 50 to 250,000, something like that?**

A. You know, it could be -- you know, I'm just pulling the numbers from memory. I'd prefer to read the code, but it's a dollar threshold.

**Q. Okay. And the building -- the manufacturing facility, the office building, and the launch pad, those are owned by the county; right?**

A. That is correct.

**Q. So earlier you said that you would not have suggested another architect to World View but the building is going to belong to the county. Why not?**

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A. We were building a building to suit a specific operator and we had envisioned and we did enter into a lease/purchase agreement with that operator.

**Q. That was after January of 2016, though; right?**

A. Yes, but it was part of the January 16th actions.

**Q. So prior to January of 2016, why would you not have suggested another architect to World View if the county's going to own the building?**

A. Again, because it's a specific building for a specific user, and World View was that specific user and they had unique parameters for the building.

**Q. And what about the contractor? Why would you not have suggested another contractor?**

A. Again, the fact that this contractor through a construction manager at risk contract could deliver within the timeframes.

MR. SANDEFUR: All right. I think that's all that I have.

THE WITNESS: Thank you.

MR. FLAGG: We'll read and sign.

(10:58 a.m.)

### **Exhibit 3**





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# MEMORANDUM

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Date: August 12, 2015

To: Dr. John Moffatt, Director  
Strategic Planning Office

From: C.H. Huckelberry  
County Administrator

Patrick Cavanaugh, Business Service Coordinator  
Economic Development and Tourism

Re: **World View Economic Development Proposal**

As you know, I recently met with Sun Corridor, PICOR and World View representatives; specifically Mr. Michael Guymon, Ms. Susan Hyatt Dumon, Ms. Jane Poynter, Ms. Marcela Solis de Kester and Mr. Michael Hammond. We discussed the possibility of County property being made available to World View for their purpose. The property in question would be the property closest to Old Nogales Highway and immediately north of the new Aerospace Parkway. As an alternate, the property adjacent to and south of the new Raytheon entry road could also be used.

It was indicated the site area would be 20 to 25 acres, with a building configuration consistent with World View's manufacturing of balloon launch vehicles and offices for administration, management, and research and development. World View's employment phasing and investment costs associated with the proposal are detailed in the attached materials.

I suggested World View should conduct conceptual land use and site development planning and perhaps work with Architect Phil Swaim for this purpose such that an adequate sized building of approximately of 100 to 200 feet width with a length of approximately 600 to 700 feet could be appropriately located on the proposed property.

As you have mentioned, the property in question is immediately south of the Raytheon Radar Testing range; hence, the building needs to be oriented to minimize interference with Raytheon and the need for Raytheon's consent of the building and location.

Constructing an approximate 100,000 square feet building with most of the facility being dedicated to manufacturing should be equivalent to a hangar or open building configuration costing in the range of \$50 per square foot. The office space would cost approximately \$150 per square foot.

World View is a firm we would be interesting in retaining in Pima County and facilitating their manufacturing development and expansion. Incentives would include either:

Dr. Moffatt and Mr. Cavanaugh  
Re: **World View Economic Development Proposal**  
August 12, 2015  
Page 2

- 1) A favorable structure on a lease or sale of the property;
- 2) Assistance in financing the capital building associated with the project through the Pima County Industrial Development Authority;
- 3) The structuring of repayments appropriate to startup of the operation, or perhaps payment during the first five years could be minimized, with full payment recovered within the next 10 to 15 years;
- 4) Exploring whether the Arizona Commerce Authority (ACA) could assist in certain financing and other actions related to the machinery and equipment required;
- 5) Entering into a Foreign Trade Zone agreement to substantially decrease the property tax for both the real property and personal property, which would appear to be significant;
- 6) assist with review and approval of all building and site development plans if the County retains ownership of the property and leases it to World View through an intergovernmental agreement between the County and City of Tucson, allowing the County to provide these services in an expedited manner;
- 7) Building construction would include a construction sales tax and sales tax on purchase of equipment and machinery. Discussion should occur with the City of Tucson regarding the waiver of sales taxes.

This is a partial list of possible incentives. As we learn more about and interact with the owners of World View, Sun Corridor, ACA and Mr. Hammond, perhaps other incentives could be offered.

As discussed at the meeting, we are competing with a proposal from Florida. It is important we know the specifics of this proposal to World View and confirm it is a valid competitor. It is not appropriate to compete against ourselves; hence, our ability to be assured the Florida option is active and valid.

We should be in contact with all parties on a regular basis to facilitate open, clear and efficient communication.

I am available at any time to discuss issues as they arise.

CHH/anc

Attachment

c: Michael Guymon, Director of Economic Development, Sun Corridor Inc.  
Michael Hammond, President, PICOR

## **Exhibit 4**



# **Board of Supervisors Memorandum**

January 19, 2016

**World View Enterprises, Inc. Corporate Headquarters in the County  
Aerospace, Defense and Technology Research and Business Park**

## **Introduction**

For the last six months, Pima County and Sun Corridor Inc. have been working to retain a technology company in Pima County. The codename for the company has been "Project Curvature." The County, City of Tucson, Sun Corridor Inc., and the Arizona Commerce Authority have all cooperated to provide Project Curvature certain economic development benefits to expand their facilities in Pima County (Attachment 1). The company name is World View Enterprises, Inc. The entrepreneurs that established World View previously launched another successful space research company in Pima County known as Paragon Space Development Corporation.

Pima County and the State of Arizona competed with the Florida Space Coast, as well as the State of New Mexico's Space Port America near White Sands. In the Florida case, Enterprise Florida assembled a package that included building and equipment financing, attractive lease rates, tax refunds and property tax abatements. New Mexico offered similar incentives and also included a substantial expenditure from their "deal closing" funds. Both locations had existing space ports with little need by the company or the jurisdiction to build additional resources or infrastructure.

There were advantages for World View to remain in southern Arizona and avoid moving costs, but the gap between the offer assembled by Sun Corridor Inc. and the economic development organizations in Florida and New Mexico was still in the \$15 to \$20 million range. For World View to retain their small but steadily growing operation in Tucson, the State and local governments needed to provide additional resources and incentives to keep the company from relocating.

We were notified on December 23, 2015 that World View had accepted the County's incentive proposal, as well as those of the Arizona Commerce Authority and the City of Tucson (Attachment 2). World View's acceptance of Pima County's proposal was contingent upon the County making its best efforts to deliver the manufacturing site by November 2016.

## **World View – A Space Technology Corporation**

World View is a Tucson-based company pioneering the development of suborbital space flight, utilizing proprietary high-altitude balloon technology with parafoil controlled recovery

The Honorable Chair and Members, Pima County Board of Supervisors  
**Re: World View Enterprises, Inc. Corporate Headquarters in the County Aerospace, Defense  
and Technology Research and Business Park**  
January 19, 2016  
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to launch and recover from the same geographic area. This makes research, scientific and ultimately tourism flights more affordable, as well as minimizes risk to sensitive research equipment that exists with rocket-powered space flight and recovery.

World View has recently successfully negotiated multimillion dollar contracts with the National Aeronautics and Space Administration (NASA) and Northrop Grumman. World View anticipates significant additional demand based on commercial application of their suborbital space technology for tactical communications and surveillance. In addition, untapped potential exists with regard to space tourism.

The World View senior management team consists of Jane Poynter, Chief Executive Officer and Taber MacCallum, Chief Technology Officer; both founders of Tucson based Paragon Space Development Corporation and members of the first crew to live in Biosphere 2 for two years. Chief Scientist is Dr. Alan Stern, former NASA Associate Administrator for Science, and the Director of Flight Crew Operations is Astronaut Mark Kelly. Their advisory team includes many of the world's leading experts on nearspace science and balloon technology.

World View appears to have a business competitive space advantage to attract additional commercial clients, as well as aerospace and research institutions as the company has demonstrated the ability to a) provide suborbital, orbital, or a stationary instrument platform; b) maintain a sustained presence with continuous observation while far above controlled airspace; c) deploy quickly with flexible launch locations; and d) minimize deployment costs and recover the payload.

They will also have an advantage in space tourism because of a) non-traumatic launch to the edge of space in a unique eight-person sealed capsule; b) no significant health requirements or special suits; c) less expensive, safer, and gentler alternative; d) the ability to spend hours aloft; and e) gentle, controlled descent.

#### World View Job Growth Schedule

World View has selected Tucson and Pima County as their world corporate headquarters, and their primary employment base will reside within Pima County. Based on scheduled deliverable contract obligations, World View employment will grow substantially in the next five years. World View is expected to grow from over 25 employees to over 400 employees within the next five years and will pay on average \$55,000 per year, or 150 percent of the current annual wage in Pima County. These jobs are export-based jobs that have been our priority for job growth as designated in the County adopted Economic Development Plan for 2015 through 2017.

The Honorable Chair and Members, Pima County Board of Supervisors  
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### Economic and Revenue Impacts of the Project

Pima County, through its partnership with Sun Corridor Inc., requested an independent, third-party analysis of the economic and revenue impacts of World View's proposed operation. The analysis, conducted by Phoenix-based Applied Economics, estimated the total economic impact of World View's operations at approximately \$3.5 billion over the next 20 years.

Including the previously noted 400-plus direct jobs created by World View, the company's operations would directly and indirectly support a total of 840 jobs created in Pima County and generate an estimated \$38.7 million in annual personal income in our region. The 400-plus direct jobs expected to be employed by World View in 2020 would result in an annual payroll of in excess of \$25.3 million; and the additional 400 indirect jobs created in Pima County businesses would support an estimated \$13.5 million in payroll during that same time period. Construction of the new facility is expected to create 100 new direct construction jobs and 50 indirect jobs in Pima County and generate an estimated \$13.5 million in new construction activity. This would result in a one-time economic impact to our region of an estimated \$19.5 million.

In addition to its important stimulus of the local economy, World View's operations would also provide significant tax revenues to local governments during the 20-year period analyzed by Applied Economics. The direct and indirect revenue impacts to Pima County alone are estimated at \$10.7 million, with additional revenue for the City of Tucson, Regional Transportation Authority, Pima Community College and Sunnyside Unified School District.

Applied Economics' analysis concluded that World View's operation would provide significant economic development benefits for Pima County and create a large number of high paying jobs for our region. The complete economic and revenue analysis is Attachment 3 to this memorandum.

### World View Headquarters Site Selection

As stated previously, Pima County has been working with World View for over six months on a proposal to retain them within the region. We have worked very closely with their Real Estate Representative, PICOR, to find a site that would be acceptable to World View. Of all the various sites reviewed, World View has chosen a location within the County's planned Aerospace, Defense and Technology Business and Research Park. The property

The Honorable Chair and Members, Pima County Board of Supervisors  
Re: **World View Enterprises, Inc. Corporate Headquarters in the County Aerospace, Defense  
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selected consists of 28 acres adjacent to the newly constructed Aerospace Parkway and south of Raytheon's new main south entry. The County has coordinated closely with Raytheon to ensure a new user such as World View is compatible with their operations. They have wholeheartedly endorsed the location of World View at the selected site. World View has had multiple discussions with the Air Traffic Control branch of the Federal Aviation Administration regarding the suitability of this site for launch operations.

The World View business model is consistent with our tenant goals for the Aerospace, Defense and Technology Business and Research Park. Their international clientele and involvement with a wide range of aerospace companies and the potential to attract suppliers make them a good initial tenant for the Park. World View also stands to be a major contributor to regional tourism with their international investors and client base and will be a high-profile tenant positioned along the Aerospace Parkway. Our property location very near Tucson International Airport is also beneficial for their client and investor base and is expected to contribute to Tucson Airport Authority and Fixed Base Operator revenues.

#### Facility Improvements Necessary to Retain World View in Pima County

As part of the County offer and incentive for World View, the County has proposed to construct a 120,000 square foot standard steel frame facility to accommodate light manufacturing operations on approximately 12 acres. The facility will include a 15,000 square foot mezzanine within the overall structure for office and support operations, for a total of 135,000 square feet of leasable space. The worksite will include parking and storage, as well as a 700-foot diameter launch pad. The total cost of the new facility – including all permitting fees, fees to be paid to the City of Tucson for transportation impact, payment for fixtures, furniture, equipment that are affixed to the structure – as well as facility construction, is estimated to be \$15 million and will be limited to no more than \$15 million – \$14.5 million for the manufacturing and administrative building and \$500,000 for the space port.

In our proposal, the County will finance this facility to be repaid by World View through annual lease and/or rent payments. The Lease/Purchase Agreement and legal description are Attachment 4 to this memorandum. Annual lease and/or rent payments are identified in Table 1 below and are compared with the County financing of the capital facilities, which will be through a 15-year Certificate of Participation financing agreement. The lease payments from World View will be over a 20-year period, with an option to purchase.

**Table 1: Building Financing and Lease Payments.**

Year	Paid by Pima County (at the end of the year)		Lease Rate per square foot	Paid by World View	Excess (Deficit) of Amounts Paid by World View to Amounts Paid by Pima County	
	Principal	Interest		Lease Payment	Period Deficit	Cumulative Deficit
1	\$ 749,116.51	\$ 600,000.00	\$ 5.00	\$ 675,000	(\$674,116.51)	(\$674,116.51)
2	779,081.17	570,035.34	5.00	675,000	(674,116.51)	(1,348,233.01)
3	810,244.41	538,872.09	5.00	675,000	(674,116.51)	(2,022,349.52)
4	842,654.19	506,462.32	5.00	675,000	(674,116.51)	(2,696,466.02)
5	876,360.36	472,756.15	5.00	675,000	(674,116.51)	(3,370,582.53)
6	911,414.77	437,701.73	8.00	1,080,000	(269,116.51)	(3,639,699.03)
7	947,871.36	401,245.14	8.00	1,080,000	(269,116.51)	(3,908,815.54)
8	985,786.22	363,330.29	8.00	1,080,000	(269,116.51)	(4,177,932.04)
9	1,025,217.66	323,898.84	8.00	1,080,000	(269,116.51)	(4,447,048.55)
10	1,066,226.37	282,890.13	8.00	1,080,000	(269,116.51)	(4,716,165.06)
11	1,108,875.43	240,241.08	10.00	1,350,000	883.49	(4,715,281.56)
12	1,153,230.44	195,886.06	10.00	1,350,000	883.49	(4,714,398.07)
13	1,199,359.66	149,756.84	10.00	1,350,000	883.49	(4,713,514.57)
14	1,247,334.05	101,782.46	10.00	1,350,000	883.49	(4,712,631.08)
15	1,297,227.41	51,889.10	10.00	1,350,000	883.49	(4,711,747.58)
16			12.00	1,620,000	1,620,000.00	(3,091,747.58)
17			12.00	1,620,000	1,620,000.00	(1,471,747.58)
18			12.00	1,620,000	1,620,000.00	148,252.42
19			12.00	1,620,000	1,620,000.00	1,768,252.42
20			12.00	1,620,000	1,620,000.00	3,388,252.42
	\$15,000,000.00	\$5,236,747.58		\$23,625,000	\$3,388,252.42	

The financing and rent is based on an assumed financing interest rate of four percent. By cursory examination of Table 1 above, the County is front-ending the capitalization of the building and facilities and fully recovering our investment, with an excess payment of nearly \$3.4 million over a 20-year lease period. The option to purchase between Years 10 and 17 will include a requirement that should World View opt to purchase the building, the accumulated deficit in our advancement of principal and interest payments must be fully repaid with interest over the period we have incurred a deficit at the stated long-term government investment pool rate. This is the interest rate the County would have received



The Honorable Chair and Members, Pima County Board of Supervisors  
Re: **World View Enterprises, Inc. Corporate Headquarters in the County Aerospace, Defense  
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on all funds, such as the fund balance or other funds reserved for purposes other than annual expenditure. In essence, the County is being made financially whole regardless of the option selected by World View; an early lease purchase or a full-term 20-year lease. Included in the \$15 million is not only the capital construction to build the facility, but all fees paid to the City and the County. Notable conceptual fee payments from this \$15 million are shown in Table 2 below. These estimates are relatively accurate but may vary.

**Table 2: World View Headquarters Fee Payments.**

<b>Description</b>	<b>Amount</b>
Wastewater Connection Fees	\$ 27,030
Water Connection Fee	10,600
Building/Site Development Permit Fees	446,000
Southland Impact Fees	566,370
<b>Total</b>	<b>\$1,050,000</b>

The building/site development permit fees will be paid to the County's Development Services Department. The Southland Impact Fees will be paid to the City of Tucson. The City Manager has committed these fees to the transportation facilities in the Sonoran Corridor.

In addition, the County has assigned a market value of the land being purchased through the possible lease/purchase of this site at approximately \$37,000 per acre, which compares to the initial purchase price of the property of \$16,000 per acre. Hence, amplifying the economic benefits associated with the County's acquisition of these lands to ensure future commercial and industrial users that are compatible with Raytheon operations.

Development of Pima County SpacePort Tucson

Of the 28 acres being occupied for World View expansion, 12 acres are dedicated to the manufacturing, assembly and administrative building of 135,000 square feet, plus site parking and an area for future building expansion. Sixteen acres are being set aside for a 700-foot diameter concrete launch pad. The World View building and manufacturing site will be under an operating agreement for World View uses. The launch pad will be used by World View for their purposes of vehicle launch, and they will have priority use of the launch pad. The SpacePort Operating Agreement and legal description are Attachment 5 to this memorandum. The launch pad will remain a public asset and be available for other commercial near-space or stratospheric uses consistent with Federal Aviation Administration (FAA) regulations and under the control of FAA Air Traffic Control. The process for federal spaceport approval has been initiated.

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Re: **World View Enterprises, Inc. Corporate Headquarters in the County Aerospace, Defense  
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A 450-foot asphalt launch pad was originally planned; however, an optional 700-foot launch pad is desired. The County will prioritize development of the 700-foot diameter launch pad, and we intend to pursue grant opportunities to construct this larger launch pad. A larger pad will significantly increase the user base; not only for balloon flight operations, but also for the ability to launch and recover a variety of experimental vehicles. Likely most significant for World View is that the larger pad accommodates heavy-lift launches and human flights, which the smaller pad would not. A large, flat, protected and secured area is difficult to find, especially one that can be scheduled for use over periods of days and has utilities. The larger launch pad will be an asset to the Aerospace Park and southern Arizona in general, since the launch pad would qualify the site as a spaceport similar to other designations in other states that are home to space industry operations.

#### Selection of Project Architect and Contractor

During the recruitment process to offer World View facilities in Pima County, it was necessary to quantify their exact architectural program and space needs, as well as provide them with a reliable cost estimate for building construction. The County initially selected Swaim Associates, Ltd. Architects, AIA, with Principal Phil Swaim as the Lead Architect. Swaim Associates is the firm that provided architectural services for the integrated medical facilities at The University of Arizona, which included complex laboratory, aerospace and science facilities. The architectural services required by World View are closely aligned and technically similar to the work performed by Swaim for the University.

Barker Morrissey was selected during the proposal development process, since the firm has significant complementary project experience to that required by World View. Such projects include a two-phase new construction and renovation for Texas Instruments comprised of laboratory (including Class 1000 clean room space) and research and development space, as well as office space. Barker Morrissey also completed a 65,000 square foot research and development facility for Sion Power and a 60,000 square foot medical logistics and distribution center in the Marana area.

These two firms provided months of substantial services without compensation to provide the necessary architectural programming and design and cost models to determine the reliable size, configuration and cost of constructing World View's headquarters in Pima County.

Given the required facility delivery date of November 2016 and because of their prior involvement and detailed understanding of World View requirements, the County will now select Swaim Associates, Ltd. as the Project Architect and Barker Morrissey Contracting as the Contractor using the authority granted under A.R.S. § 34-606 Emergency Procurement and Section 11.12.060 of the Pima County Procurement Code, whereby the County has

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Re: **World View Enterprises, Inc. Corporate Headquarters in the County Aerospace, Defense  
and Technology Research and Business Park**

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A. Swaim Associates, Ltd. Architects, AIA (Headquarters: Tucson, Arizona); Not to Exceed \$850,000, including a \$50,000 contingency; Contract term January 19, 2016 through February 28, 2017; for Architectural and Engineering Design Services.

B. Barker Morrissey Contracting, Inc. (Headquarters: Tucson, Arizona); Not to Exceed \$12,400,000, including attached fixtures and equipment and an \$800,000 Contingency; Contract term January 19, 2016 through February 28, 2017; for Construction Manager at Risk Services for both preconstruction and construction services.

The County will pay all fees now estimated at approximately \$1,050,000, as well as nongovernmental utility extensions estimated at \$700,000.

In order to expedite construction under these contracts, the Board of Supervisors approves the Procurement Director to execute any and all contracts, amendments and change orders to the contracts listed above within the dollar and term limits awarded by this action. Any amendment or change order resulting in a contract value or term in excess of the Board award will be submitted to the Board for approval.

Respectfully submitted,



C.H. Huckelberry  
County Administrator

CHH/mjk – January 13, 2016

Attachments

## **Exhibit 5**



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# MEMORANDUM

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Date: November 2, 2015

To: Tom Burke, Director  
Deputy County Administrator  
for Administration

From: C.H. Huckelberry  
County Administrator

A handwritten signature in black ink, appearing to read "CH", is written over the printed name "C.H. Huckelberry".

Re: **Selection of Swaim and Associates for Possible Architectural Planning and Design Services Associated with World View**

Attached is a copy of a press release and an October 23, 2015 letter I transmitted to World View. World View is considering locations for their new manufacturing facilities, and Pima County is a finalist, along with several locations in Florida. It will be difficult to compete with Florida due to federal funding of repurposing missions associated with the shuttle. Nearly \$40 million has been appropriated to Florida from the federal government for their Space Florida Initiative.

World View is currently located in Pima County, and they are transitioning from a research and prototype facility to a full production facility. World View would employ as many as 500 individuals at an approximate 135,000 square foot manufacturing facility.

In our initial meetings with World View, it is clear they had no structure regarding design and cost parameters for a new manufacturing facility. I suggested they work with Swaim and Associates Architects and Barker Morrissey Contracting to get a better idea of actual costs and cost components of their new manufacturing facility. They have now asked for a proposal to build such a facility at the Aerospace, Defense and Technology Research and Business Park; hence, my October 23 letter. World View is now refining the proposal to reduce the overall cost.

The purpose of this memorandum is two-fold. First, to inquire of you and the Procurement Director the most appropriate method to employ World View's project architect, Swaim and Associates, to complete the necessary design, planning, programming and construction drawings for a new facility if they choose Pima County to locate their headquarters.

Second, we need to review the various financing mechanisms that could be made available to finance this project and enter into a lease/purchase agreement with World View over a 20-year period where we would recover our capital outlay with interest. There are likely a number of financing mechanisms, including Certificates of Participation (COPs). However, it is likely because of their use, the COPs issue would be taxable.

Mr. Tom Burke

Re: **Selection of Swaim and Associates for Possible Architectural Planning and Design  
Services Associated with World View**

November 2, 2015

Page 2

Please review the financing mechanisms available to the County and ask the Procurement Director to make recommendations regarding a possible contract with Swaim and Associates for World View architectural services.

CHH/anc

Attachments

c: Dr. John Moffatt, Strategic Planning Director

## **Exhibit 6**

IN THE SUPERIOR COURT OF ARIZONA  
IN AND FOR THE COUNTY OF PIMA

RICHARD RODGERS; SHELBY                     )  
MAGNUSON-HAWKINS; and                     )  
DAVID PRESTON,                                 )  
  )  
  Plaintiffs,                     )  
  )  
  vs.                                 ) No. C20161761  
  )  
CHARLES H. HUCKELBERRY, in                     )  
his official capacity as                     )  
County Administrator of                     )  
Pima County; SHARON                     )  
BRONSON, RAY CARROLL,                     )  
RICHARD ELIAS, ALYSON                     )  
MILLER, and RAMON VALADEZ,                     )  
in their official                                 )  
capacities as members of                     )  
the Pima County Board of                     )  
Supervisors; PIMA COUNTY,                     )  
a political subdivision of                     )  
the State of Arizona,                     )  
  )  
  Defendants.                     )  
\_\_\_\_\_  
  )

DEPOSITION OF JOHN MOFFATT, PH.D.

March 19, 2018  
Tucson, Arizona  
8:13 a.m.

Reported by:  
Julianne Roesly, RPR, CR, CSR  
CR #50302 (AZ), CSR #7756 (CA)

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KATHY FINK & ASSOCIATES  
2819 East 22nd Street  
Tucson, Arizona 85713  
520.624.8644



<p style="text-align: right;">Page 16</p> <p>1 know what we can do.</p> <p>2 <b>Q. And Taber and Jane are with World View; right?</b></p> <p>3 A. They're the principals of World View.</p> <p>4 <b>Q. Do you remember when you first discussed the</b></p> <p>5 <b>project with Mr. Huckelberry?</b></p> <p>6 A. Yeah, that was not early on. It was later.</p> <p>7 And, actually, they had met with him before I was</p> <p>8 involved.</p> <p>9 And I think that this -- their approach was</p> <p>10 actually more direct, whereas site selectors would work</p> <p>11 through Sun Corridor and come to our office and that</p> <p>12 sort of thing. And they -- they had met directly with</p> <p>13 Mr. Huckelberry, and then I became -- you know, after he</p> <p>14 had met with them, he then alerted me to the project.</p> <p>15 <b>Q. And that -- and he alerted you in 2014, you</b></p> <p>16 <b>said?</b></p> <p>17 A. Yeah, it probably was. Probably 2015, I would</p> <p>18 say, early -- I don't remember the dates, I'm sorry.</p> <p>19 <b>Q. All right.</b></p> <p>20 A. But it would be earlier 2015, and then --</p> <p>21 <b>Q. Did he tell you at the time, if you remember,</b></p> <p>22 <b>what World View's deadline for completing the project</b></p> <p>23 <b>was?</b></p> <p>24 A. He did, and he -- he had said they needed --</p> <p>25 they had a critical -- he wasn't specific and they were</p>	<p style="text-align: right;">Page 18</p> <p>1 they're local, they have good subs -- I remember him</p> <p>2 saying that they have good, reliable subs.</p> <p>3 <b>Q. Meaning subcontractors?</b></p> <p>4 A. Subcontractors yes, and it was Barker</p> <p>5 Morrissey.</p> <p>6 <b>Q. Okay. Well, I want to show you a document</b></p> <p>7 <b>here.</b></p> <p>8 MR. SANDEFUR: If you can mark that as our</p> <p>9 first exhibit there.</p> <p>10 (Exhibit 1 marked for identification.)</p> <p>11 BY MR. SANDEFUR:</p> <p>12 <b>Q. Do you recognize this memo?</b></p> <p>13 A. Yes.</p> <p>14 <b>Q. It says on the bottom there, "Dr. John</b></p> <p>15 <b>Moffatt."</b></p> <p>16 <b>Did you receive a copy of it?</b></p> <p>17 A. Yes.</p> <p>18 <b>Q. And it's dated September 9th, 2014.</b></p> <p>19 <b>And am I correct that it refers to a meeting</b></p> <p>20 <b>that Mr. Huckelberry had with World View and that it</b></p> <p>21 <b>describes Project Curvature?</b></p> <p>22 A. Yes, in general, it does, yes.</p> <p>23 <b>Q. So we were trying to remember the date of when</b></p> <p>24 <b>you first heard about -- or about Mr. Huckelberry's --</b></p> <p>25 <b>I'm sorry, we were trying to remember the date of when</b></p>
<p style="text-align: right;">Page 17</p> <p>1 not specific who the customer was, but he said they have</p> <p>2 a critical project where they need to be done by</p> <p>3 November of -- well, they need to be done, you know,</p> <p>4 within 15, 18 months of now, of the time we started.</p> <p>5 That's why I'm saying mid 2015. So that's what he said.</p> <p>6 <b>Q. And what -- you're familiar with Barker</b></p> <p>7 <b>Morrissey and Associates?</b></p> <p>8 A. I am.</p> <p>9 <b>Q. When did you first hear of Barker Morrissey?</b></p> <p>10 A. Well, I'm familiar with them just in town, so</p> <p>11 I'm aware of them otherwise. But when -- when we were</p> <p>12 working with Swaim and World View to talk about the</p> <p>13 building and what the cost was going to be and</p> <p>14 everything, we said, you know, we need somebody to cost</p> <p>15 this thing so we know where we're -- what -- what our</p> <p>16 numbers are and values. And we asked Swaim, you know,</p> <p>17 who -- who would you -- when I say "we," that was</p> <p>18 World View as -- as well as the County and Swaim when we</p> <p>19 were having these design meetings. And that was later</p> <p>20 in the year. That was closer to when we were trying to</p> <p>21 finish the deal up.</p> <p>22 And we just asked them, you know, Who's good at</p> <p>23 estimating these -- these kind of buildings? And, you</p> <p>24 know, they came back and said the guys that really do</p> <p>25 the best with steel buildings and know their stuff and</p>	<p style="text-align: right;">Page 19</p> <p>1 <b>he first spoke to you about this project.</b></p> <p>2 <b>Is September -- is this memo the first time</b></p> <p>3 <b>that he discussed the project with you?</b></p> <p>4 A. Yes. And this -- that's why I was saying it</p> <p>5 was mid --</p> <p>6 <b>Q. Right.</b></p> <p>7 A. Mid '14.</p> <p>8 <b>Q. And you weren't familiar with Project Curvature</b></p> <p>9 <b>before that; is that right?</b></p> <p>10 A. That's correct.</p> <p>11 <b>Q. I'll show you another document here.</b></p> <p>12 MR. SANDEFUR: We'll mark that as our second</p> <p>13 exhibit.</p> <p>14 (Exhibit 2 marked for identification.)</p> <p>15 BY MR. SANDEFUR:</p> <p>16 <b>Q. And there's an E-mail here from Patrick</b></p> <p>17 <b>Cavanaugh to Jane Poynter dated September 10th, which is</b></p> <p>18 <b>right after this memo; right?</b></p> <p>19 A. Right, uh-huh.</p> <p>20 <b>Q. Have you seen this E-mail before?</b></p> <p>21 A. I do not recall seeing this.</p> <p>22 You know, I -- I recall what the circumstances</p> <p>23 were and was brought up to speed, but I don't remember</p> <p>24 seeing this.</p> <p>25 <b>Q. At the very bottom of that last paragraph, it</b></p>

1 A. You're talking about the middle?

2 **Q. That's right. And then below that is an E-mail**

3 **back from you to Phil Swaim; is that right?**

4 A. Right.

5 **Q. Okay. And the one from you, that's dated**

6 **August 10th, 2015, you say here, "I am having a map**

7 **created by the engineers that designed Aerospace Parkway**

8 **to show you the dimensions."**

9 **What are you referring to here?**

10 A. Well, at that point in time, we had felt that

11 the -- the appropriate site for World View was -- was

12 where they wound up. And the Aerospace Parkway

13 engineers had all the dimensions and the topo for

14 drainage, and so we knew what our basic issues would be

15 so that -- I asked those guys to create a map that would

16 show the parcels, you know.

17 At that point in time, it was just the large

18 parcel, so it was -- the -- it was kind of a triangular

19 shape that's rounded at the bottom, but it was -- that

20 was the parcel that we laid it out, and so we just

21 showed them dimensions, drainage, and that sort of

22 thing.

23 **Q. So the engineers that designed Aerospace**

24 **Parkway, is that Barker Morrissey?**

25 A. No, it was AECOM. AECOM is the name of the

1 company.

2 Excuse me a second.

3 **Q. All right.**

4 A. Somebody kept calling and calling and calling.

5 **Q. All right. We'll move on to the next document**

6 **here.**

7 **(Exhibit 7 marked for identification.)**

8 BY MR. SANDEFUR:

9 **Q. So this is a series of E-mails from**

10 **August 20th, 2015.**

11 **Do you recognize these?**

12 A. Yes.

13 **Q. So this is an E-mail from Phil Swaim to**

14 **Maricela Solis.**

15 MR. FLAGG: Form.

16 BY MR. SANDEFUR:

17 **Q. And then --**

18 MR. SANDEFUR: Did you get that?

19 THE REPORTER: Yes.

20 BY MR. SANDEFUR:

21 **Q. And then Swaim has forwarded it to you; is that**

22 **correct?**

23 A. Yes.

24 **Q. And in it, Ms. Solis requests that Swaim does**

25 **an elevation drawing for the proposed building; is that**

1 **right?**

2 A. That's correct.

3 **Q. By August of 2015, then, Swaim was -- was --**

4 **were they actively involved in preparing this project?**

5 A. I would say so. At the very bottom here, we

6 see from Jane Poynter to Maricela, the -- the dimensions

7 that they're talking about, so I would say yes.

8 **Q. Okay. But Barker Morrissey, they weren't**

9 **involved yet, were they?**

10 A. Not to my knowledge.

11 Now, you'll see -- you'll -- at the top, you'll

12 see I copied Kevin Morrissey, okay, and that's -- that's

13 the Morrissey of Barker Morrissey.

14 **Q. And why did you do that?**

15 A. Well, because they had already identified them

16 as the people to do the pricing.

17 **Q. You mean Swaim had already?**

18 A. Swaim had, that's correct.

19 **Q. And what was asked of Swaim at that time by the**

20 **County?**

21 A. Our whole goal in this was understanding the

22 cost. It was up to Swaim to understand and interpret

23 the needs of World View, and that was, I guess, our ask.

24 It was kind of the collective ask. We had to get that

25 put together. It was a -- the project, what's the

1 building what extent, you saw the -- the dimensions

2 here. And then you -- how big does it have to be, how

3 much manufacturing, how many office space, and that sort

4 of thing.

5 And I sat in on a couple of those meetings, and

6 that's when the -- okay. Now we need to cost this out,

7 and that's why the Barker guys were engaged, or

8 Barker Morrissey.

9 **Q. And who was paying Swaim for doing that work?**

10 A. It was pro bono.

11 **Q. Let's see. Let's move on to the next document**

12 **here.**

13 **(Exhibit 8 marked for identification.)**

14 BY MR. SANDEFUR:

15 **Q. And did you make these notes?**

16 A. I did.

17 **Q. And this is dated August 20th, 2016; is that**

18 **right?**

19 A. 2015.

20 **Q. I'm sorry, 2015, right.**

21 And at the top, it says these names: "Jayne,

22 Maricella, Travis, Brian Barker, Kevin Morrissey," and

23 then some other names, "Phil" and "Jason, (Swaim &

24 Associates)."

25 **Were those people all present at that meeting?**

1 A. They were.  
 2 **Q. Was this the first in-person meeting that --**  
 3 **between all of these parties together?**  
 4 A. I believe so, yes.  
 5 **Q. And these notes say -- they have a bunch of**  
 6 **numbers on there. It says here, "100 X 600 - Balloon**  
 7 **MFG." 20 foot clear; is that right?**  
 8 A. 24 foot clear, that's correct.  
 9 **Q. And what's that referring to?**  
 10 A. That's the area needed to construct or build  
 11 the balloons, so they needed 600 feet long, 100 feet  
 12 wide, 24 feet high.  
 13 **Q. And that information came from World View?**  
 14 A. Correct.  
 15 **Q. And why were -- why was Barker and Morrissey**  
 16 **present at this meeting?**  
 17 A. Well, that -- this was -- as I'd said, we had  
 18 asked them to start getting engaged to get pricing, so  
 19 the fact -- you know, to have a 106 foot high area with  
 20 a crane, those -- those kind of things are not common  
 21 knowledge. You have to have somebody figure it out.  
 22 **Q. Did you invite any other architects to this**  
 23 **meeting?**  
 24 A. No.  
 25 **Q. Did you invite any other contractors to this**

1 **meeting?**  
 2 A. No.  
 3 **Q. Okay. Let's move on to the next one.**  
 4 A. I might clarify that I didn't invite any of  
 5 these people.  
 6 **Q. Who did?**  
 7 A. I believe it was -- it was World View and --  
 8 and Swaim.  
 9 **Q. Is that -- and so that meeting was organized by**  
 10 **World View and Swaim?**  
 11 A. Correct.  
 12 **Q. Okay.**  
 13 **(Exhibit 9 marked for identification.)**  
 14 BY MR. SANDEFUR:  
 15 **Q. And these notes are dated August 28th, 2015; is**  
 16 **that right?**  
 17 A. That's correct.  
 18 **Q. So that's just over -- just a little over a**  
 19 **week after the previous meeting; is that right?**  
 20 A. Right.  
 21 **Q. And this also has names at the top, including**  
 22 **Swaim and Barker and Morrissey; is that right?**  
 23 A. Correct.  
 24 **Q. So this was from another meeting that you**  
 25 **attended in person with all of these representatives; is**

1 **that right?**  
 2 A. Right, this is when we were nailing down the  
 3 detail.  
 4 **Q. You were really busy at that time, weren't you?**  
 5 A. We were.  
 6 **Q. So at this August 28th meeting, it says --**  
 7 **there's lots of stuff, we won't go through it all, but**  
 8 **it says here, GC - 6 month construction.**  
 9 **Does "GC" mean general contractor?**  
 10 A. Yes.  
 11 **Q. And who was the general contractor?**  
 12 A. It was intended to be Barker Morrissey, I'm  
 13 pretty sure.  
 14 **Q. And where did -- did -- and did these numbers**  
 15 **here come from them?**  
 16 A. Most -- yes, I would say most of them did.  
 17 **Q. And a little bit down the way, it says, "Part**  
 18 **of architect."**  
 19 A. That's right.  
 20 **Q. Right above the number 2, it says, "Part of**  
 21 **architect."**  
 22 **What does that mean?**  
 23 A. That would be part of the architect's cost. Do  
 24 you see where it says, "Soft cost," 60,000 Special  
 25 Inspections? Those would go into the soft cost, which

1 falls under the architect's responsibility.  
 2 **Q. And who's the architect?**  
 3 A. Swaim.  
 4 **Q. So -- and what does soft cost include?**  
 5 A. I don't know all of their soft cost, but it's  
 6 typically some of the things where they have to go get  
 7 permits. It's not direct labor. They have to get  
 8 permits, they have to bring in mechanical inspection and  
 9 those kind of things, if they have to bring a consultant  
 10 in to help them design something.  
 11 **Q. I see.**  
 12 **And under point 2, it says, "Surveying &**  
 13 **staking"; is that right?**  
 14 A. Correct.  
 15 **Q. What does that refer to?**  
 16 A. Surveying the property, staking it out, and --  
 17 and, I assume, the 35K is the cost.  
 18 **Q. And who would be responsible for that?**  
 19 A. That was -- actually, that would be part of  
 20 the -- Swaim did that, as well, as part of their soft  
 21 cost.  
 22 **Q. Under point 3, it says, 135K, 64 Col. What**  
 23 **does that refer to?**  
 24 A. A 135,000 square feet and probably 64  
 25 columns --

<p style="text-align: right;">Page 52</p> <p>1 or so before that thing that we just looked at?</p> <p>2 A. Correct.</p> <p>3 Q. Did you write this?</p> <p>4 A. No.</p> <p>5 Q. Did you have any involvement in writing this?</p> <p>6 A. I don't believe so.</p> <p>7 Q. Okay. But you received a copy of it; right?</p> <p>8 A. I did.</p> <p>9 Q. Okay. Because you're cc'd at the bottom;</p> <p>10 right?</p> <p>11 A. Right.</p> <p>12 Q. And it says here -- I'm trying to find exactly</p> <p>13 where it is.</p> <p>14 Yeah, on the third paragraph, it says, "In our</p> <p>15 initial meetings with World View, it is clear that they</p> <p>16 had no structure regarding design and cost parameters</p> <p>17 for a new manufacturing facility. I suggested they work</p> <p>18 with Swaim and Associates Architects and Barker</p> <p>19 Morrissey Contracting."</p> <p>20 Do you see that?</p> <p>21 A. I do.</p> <p>22 Q. Is that true? Did Mr. Huckelberry suggest</p> <p>23 that?</p> <p>24 MR. FLAGG: Foundation.</p> <p>25 ///</p>	<p style="text-align: right;">Page 54</p> <p>1 running by the end of the year in 2016 due to projects</p> <p>2 that they had.</p> <p>3 And, you know, they would not discuss who the</p> <p>4 client was. I later learned it to be NASA, but they --</p> <p>5 they had a contract that they needed to perform on at</p> <p>6 that point.</p> <p>7 Q. And when did you learn that?</p> <p>8 A. I don't remember. It was during the general</p> <p>9 discussions where we were working on it.</p> <p>10 Q. Okay.</p> <p>11 A. But it was -- it was certainly early on when</p> <p>12 we -- it was very emphatic that they had to meet that</p> <p>13 deadline.</p> <p>14 Q. Okay. And that was made emphatically clear</p> <p>15 early on in the process?</p> <p>16 A. It was.</p> <p>17 Q. So roughly speaking --</p> <p>18 A. Not in 2014, but in 2015.</p> <p>19 Q. In 2015, okay.</p> <p>20 And at that time when it was -- when they said</p> <p>21 that, did you push back at all? Did you say, you know,</p> <p>22 this is impractical, or, you know, difficult to do?</p> <p>23 A. We said it was difficult to do, but, you know,</p> <p>24 the -- the issue that we were up against is that -- is,</p> <p>25 like I said, as I was doing the research, you know, you</p>
<p style="text-align: right;">Page 53</p> <p>1 BY MR. SANDEFUR:</p> <p>2 Q. Do you know whether Mr. Huckelberry suggested</p> <p>3 that?</p> <p>4 A. I do not know that.</p> <p>5 Q. But we do know that that came together, Barker</p> <p>6 Morrissey and Swaim and World View, they came together</p> <p>7 sometime around early August of 2015; is that right?</p> <p>8 A. Correct.</p> <p>9 Q. Do you know whose idea it was that the County</p> <p>10 would provide World View with a balloon construction</p> <p>11 facility?</p> <p>12 A. That -- I actually wasn't in those earlier</p> <p>13 discussions with Atha, Cavanaugh, and -- and</p> <p>14 Huckelberry. I assume it was one of those three.</p> <p>15 Q. So if the -- yeah, lets go back to the previous</p> <p>16 thing, the January 19th, 2016, memo.</p> <p>17 During the negotiations that's referred to</p> <p>18 here, you didn't -- do you remember where it says, "For</p> <p>19 the last six months," do you remember having</p> <p>20 conversations during that time when World View said when</p> <p>21 it would need its project completed?</p> <p>22 A. Yes.</p> <p>23 Q. And what were those conversations? What did</p> <p>24 they say was their deadline?</p> <p>25 A. They said they had to have a facility up and</p>	<p style="text-align: right;">Page 55</p> <p>1 research your competitor. Florida was repurposing the</p> <p>2 Kennedy Space Center with federal dollars. And they had</p> <p>3 ramp -- they had launch space and they had big buildings</p> <p>4 ready that -- that they were able to use federal dollars</p> <p>5 to repurpose, and those could all meet that deadline.</p> <p>6 And the same was true in New Mexico, so they</p> <p>7 had the Space America in New Mexico, plus they had a</p> <p>8 building in Las Cruces that could meet the deadline, so</p> <p>9 we felt we had a legitimate issue to deal with.</p> <p>10 Q. And on this January 19th memo, the long one</p> <p>11 here --</p> <p>12 A. Uh-huh.</p> <p>13 Q. -- on page 0039, it says, "During the</p> <p>14 recruitment process" --</p> <p>15 A. I don't have that.</p> <p>16 Q. That's about --</p> <p>17 A. Oh, I see.</p> <p>18 Q. It's about halfway down the page.</p> <p>19 A. I got it.</p> <p>20 Q. It says, During the recruitment process, it was</p> <p>21 necessary to quantify the architectural program and</p> <p>22 space needs.</p> <p>23 Do you see that?</p> <p>24 A. I do.</p> <p>25 Q. And it says, The County initially selected</p>

<p style="text-align: right;">Page 56</p> <p>1 Swaim Associates Architects with Phil Swaim as the Lead</p> <p>2 Architect.</p> <p>3 Is that correct that the County selected Swaim</p> <p>4 and Associates?</p> <p>5 MR. FLAGG: Foundation.</p> <p>6 THE WITNESS: Well, the -- the background that</p> <p>7 I told you was the way it happened. Certainly Swaim was</p> <p>8 brought in as a part of the project and then -- and</p> <p>9 then -- as it was clear that they had the ability to do</p> <p>10 this, so I guess you could infer that we selected them</p> <p>11 at that point in time.</p> <p>12 BY MR. SANDEFUR:</p> <p>13 Q. And it says here, Swaim is the firm that</p> <p>14 provided architectural services for the integrated</p> <p>15 medical facilities.</p> <p>16 What facilities are you talking about there, do</p> <p>17 you know?</p> <p>18 A. Well, there -- there are lots of integrated</p> <p>19 medical facilities.</p> <p>20 Q. Right.</p> <p>21 A. But they had just done the architecture work</p> <p>22 for one of the major projects at the medical school.</p> <p>23 Q. And how is that -- well, do you know how that</p> <p>24 was in any way related to the work for World View?</p> <p>25 A. I think it was -- if -- if you read the rest of</p>	<p style="text-align: right;">Page 58</p> <p>1 Q. Do you know why they did that?</p> <p>2 A. They -- they actually had done it on another</p> <p>3 projects. They just did it on another project that</p> <p>4 we're working on downtown. I think they -- it's been</p> <p>5 their contribution to economic development. In some</p> <p>6 cases, they get the business and in some cases, they</p> <p>7 don't.</p> <p>8 Q. So they don't expect to be paid after the fact</p> <p>9 for these kind -- this kind of work at all?</p> <p>10 A. No. I've had them do renderings, like earlier</p> <p>11 on you saw they wanted elevations and stuff for a couple</p> <p>12 of sites that the County owns and did them, everybody</p> <p>13 liked them, but they weren't paid for them.</p> <p>14 Q. Has Swaim ever been paid for its preapproval</p> <p>15 work on this project, on the World View project?</p> <p>16 A. No. They were paid -- you know, I think part</p> <p>17 of the work that they did in building up to this wound</p> <p>18 up in the final project, but it was not -- there was not</p> <p>19 any retroactive payment. It was strictly for work</p> <p>20 performed on the project.</p> <p>21 Q. And is the same true of Barker Morrissey?</p> <p>22 A. Correct.</p> <p>23 Q. So was there ever any understanding, either</p> <p>24 formal or informal, between the County staff on one side</p> <p>25 and Barker Morrissey on the other that they would get</p>
<p style="text-align: right;">Page 57</p> <p>1 the sentence, it says it "included complex laboratory,</p> <p>2 aerospace and science facilities."</p> <p>3 So the aerospace piece of it, the university</p> <p>4 has a -- a device that we wound up putting in this</p> <p>5 building also called a Thermatron, which is a -- a</p> <p>6 heat-type thing where you test high altitude. And that</p> <p>7 was also installed in this building, so I think it was</p> <p>8 similar from that standpoint.</p> <p>9 Q. Because it seemed to me odd to say a medical</p> <p>10 facility was similar to the aerospace facility.</p> <p>11 MR. FLAGG: Form.</p> <p>12 THE WITNESS: Yeah.</p> <p>13 BY MR. SANDEFUR:</p> <p>14 Q. Do you know if there are other architects in</p> <p>15 the county that work on airports or helipads or anything</p> <p>16 like that?</p> <p>17 A. I do. I'm sure there are. I don't know</p> <p>18 specifically which ones.</p> <p>19 Q. Are there other architects that have done work</p> <p>20 for the University of Arizona medical facilities?</p> <p>21 A. I -- I have no direct knowledge of that.</p> <p>22 Q. And on page -- I think it's on -- well, you</p> <p>23 said it already that Swaim provided these services for</p> <p>24 no charge; is that right?</p> <p>25 A. Correct.</p>	<p style="text-align: right;">Page 59</p> <p>1 the project beginning in January of 2016 or whenever</p> <p>2 that was?</p> <p>3 A. No, because I was in those initial meetings.</p> <p>4 That was clear.</p> <p>5 Q. Was it stated to them in writing that there was</p> <p>6 a possibility they would not get the approval?</p> <p>7 A. It wasn't stated in writing, it's just that</p> <p>8 the -- the facilities management and I both were clear</p> <p>9 that these are, you know, right now, just building cost</p> <p>10 estimates. We'll see where it goes.</p> <p>11 Q. And was the same true of Swaim?</p> <p>12 A. Yes.</p> <p>13 Q. Do you know what would have happened if the</p> <p>14 County had told World View that it couldn't complete it</p> <p>15 by November 2016 and needed, maybe, you know, a month or</p> <p>16 two extra?</p> <p>17 MR. FLAGG: Foundation.</p> <p>18 THE WITNESS: Well, our speculation was because</p> <p>19 they had this hard date that -- that we would have not</p> <p>20 had the project. We would not have been successful.</p> <p>21 BY MR. SANDEFUR:</p> <p>22 Q. Did you make any effort to determine whether it</p> <p>23 was possible for another contractor to do the work other</p> <p>24 than Barker Morrissey?</p> <p>25 A. No.</p>

<p style="text-align: right;">Page 60</p> <p>1       <b>Q. Did you make any effort to determine whether it</b>  2       <b>was possible for another architect to do the work other</b>  3       <b>than Swaim?</b>  4       A. No.  5       <b>Q. So you didn't make any inquiries with any other</b>  6       <b>firms than Swaim or Barker Morrissey?</b>  7       A. I actually did talk to Sundt, and -- once we  8       had the general framework of the building done, and  9       asked if they -- because they do large buildings and --  10      and they -- they said they -- they couldn't meet that  11      kind of a date.  12      <b>Q. And when was that conversation?</b>  13      A. It was probably in November or December of '15.  14      <b>Q. And was that on the phone or by writing?</b>  15      A. No, it was not by writing. It was probably at  16      a meeting someplace where I ran into them in town. It  17      wasn't a specific call. It was, you know, What do you  18      think of this?  19      <b>Q. And were you consulting with them about how</b>  20      <b>realistic Barker Morrissey and Swaim's projections were?</b>  21      A. Right, and was it realistic to get this done in  22      that period of time.  23      <b>Q. And that was Sundt, S-u-n-t?</b>  24      A. S-u-n-d-t, "d," as in "David," "t," as in  25      "Tom."</p>	<p style="text-align: right;">Page 62</p> <p>1               Given the fact that it -- he did cite the  2       emergency procurement part. That's what I wanted to  3       make sure, is the reference was made and that was on  4       page 39.  5       BY MR. SANDEFUR:  6       <b>Q. Right.</b>  7       A. So state your question again, please.  8       <b>Q. So what did you understand that to mean?</b>  9       MR. FLAGG: Form and foundation.  10      THE WITNESS: Well, I understood it to meet  11      their time -- their requirements of making sure this was  12      done by the end of 2016.  13      BY MR. SANDEFUR:  14      <b>Q. So earlier when we were talking about the</b>  15      <b>predesign services, and what I mean by that is</b>  16      <b>contacting a contractor or an architect to -- to come up</b>  17      <b>with general cost estimates for a project, you said that</b>  18      <b>this is -- you've done this before; right?</b>  19      A. Uh-huh.  20      <b>Q. In those cases, did you let out the architect</b>  21      <b>services for public bidding? Do you know whether --</b>  22      <b>whether that happened?</b>  23      MR. FLAGG: Form.  24      THE WITNESS: No, I don't.  25      ///</p>
<p style="text-align: right;">Page 61</p> <p>1       <b>Q. And that's an architecture firm?</b>  2       A. No, it's a construction company.  3       <b>Q. Did you have any conversations with other</b>  4       <b>architecture firms about whether Swaim's plans were</b>  5       <b>realistic?</b>  6       A. No.  7       <b>Q. Okay. So on -- back to this January 19th,</b>  8       <b>2016, Memorandum, on page 41, at the very top, it</b>  9       <b>says -- it's talking about the compressed time frame for</b>  10      <b>design and construction, and that -- compliance with the</b>  11      <b>full provisions of the statute. And it's talking about</b>  12      <b>the ordinary competitive bidding statute. It says, "is</b>  13      <b>impractical and contrary to the public interest."</b>  14      <b>What did you understand that to mean?</b>  15      MR. FLAGG: Form and foundation.  16      THE WITNESS: I want to see what the first  17      paragraphs say.  18      MR. FLAGG: Can I just -- this is confusing.  19      There's a page out of order, so if you go back to  20      page 7, which is 39 at the bottom right, then you've got  21      to jump to --  22      MR. SANDEFUR: Oh, yeah.  23      MR. FLAGG: -- page -- that's our fault, so  24      jump to 41 to get to page 8.  25      THE WITNESS: Thank you.</p>	<p style="text-align: right;">Page 63</p> <p>1       BY MR. SANDEFUR:  2       <b>Q. Do you know whether in those cases the</b>  3       <b>engineering services were let out for public bidding?</b>  4       MR. FLAGG: Form.  5       THE WITNESS: I don't.  6       BY MR. SANDEFUR:  7       <b>Q. Do you prepare procurement requests in your --</b>  8       <b>in your line of work?</b>  9       A. I don't. You know, I essentially establish the  10      projects. Facilities does -- does all of that.  11      <b>Q. Okay. And in this memo, this January 19th,</b>  12      <b>2016, memo, do you know whether this was shared with the</b>  13      <b>Board of Supervisors at any time before January 29th,</b>  14      <b>2016?</b>  15      A. It often is submitted -- this is typically tied  16      to a date of a board meeting.  17      <b>Q. Uh-huh.</b>  18      A. So it will be out like the Thursday before  19      or -- that's the addendum date and it's like a week and  20      a half before if it's the regular -- pardon me, regular  21      project or regular scheduled agenda.  22      <b>Q. You attended the January 2016 board meeting,</b>  23      <b>didn't you?</b>  24      A. I did.  25      <b>Q. Do you remember asking -- Supervisor Miller</b></p>

<p style="text-align: right;">Page 76</p> <p>1 you know, for the community and make sure we've got a</p> <p>2 solid proposal in place.</p> <p>3 <b>Q. And it seems like Barker Morrissey worked</b></p> <p>4 <b>really fast in developing that -- that -- like at least</b></p> <p>5 <b>that first estimate that we talked about. Is it unusual</b></p> <p>6 <b>for these companies to work that quickly?</b></p> <p>7 A. They -- I mentioned they have a lot of</p> <p>8 subcontractors that are very stable, so they -- they</p> <p>9 were able to take the project, at least that was their</p> <p>10 explanation was to sit down and meet with all their</p> <p>11 subs. They actually had a meeting, I believe, with all</p> <p>12 their subs and -- and parsed out the work that they</p> <p>13 normally do.</p> <p>14 <b>Q. And the subcontractors are also working</b></p> <p>15 <b>pro bono?</b></p> <p>16 A. Correct.</p> <p>17 And that estimate, that was not one person</p> <p>18 sitting at Barker Morrissey doing it. It was all of</p> <p>19 their subcontractors, as well.</p> <p>20 <b>Q. It seems like it -- like it would be a lot of</b></p> <p>21 <b>work to put together one of those estimates.</b></p> <p>22 A. It is, it is.</p> <p>23 <b>Q. And -- and that it would normally cost a lot of</b></p> <p>24 <b>money, so it does seem very generous of them to do that</b></p> <p>25 <b>for no money.</b></p>	<p style="text-align: right;">Page 78</p> <p>1 <b>Q. And I think early on in the deposition you</b></p> <p>2 <b>mentioned that at some point talks kind of went cold.</b></p> <p>3 <b>Was that after September 2014?</b></p> <p>4 A. Correct.</p> <p>5 <b>Q. And so we basically just -- you didn't hear</b></p> <p>6 <b>from World View for a while.</b></p> <p>7 <b>When, then, do -- did the conversations with</b></p> <p>8 <b>World View heat up again?</b></p> <p>9 A. In the summer of 2015.</p> <p>10 <b>Q. So that's in that --</b></p> <p>11 A. Yeah.</p> <p>12 <b>Q. -- roughly six months before January 2016 time</b></p> <p>13 <b>frame?</b></p> <p>14 A. Correct.</p> <p>15 <b>Q. And then when did World View say to</b></p> <p>16 <b>Pima County, We're -- we're willing to do the deal,</b></p> <p>17 <b>let's finalize it, if you know?</b></p> <p>18 A. It was in probably late November.</p> <p>19 <b>Q. Late November of 2015?</b></p> <p>20 A. Of 2015. I remember it was right around</p> <p>21 Thanksgiving.</p> <p>22 <b>Q. And there's a memo -- I'm sorry, there are a</b></p> <p>23 <b>lot of exhibits here.</b></p> <p>24 <b>I think it's Exhibit 14, it's a November 2nd</b></p> <p>25 <b>memorandum from Mr. Huckelberry to Tom Burke. I might</b></p>
<p style="text-align: right;">Page 77</p> <p>1 MR. FLAGG: Form.</p> <p>2 THE WITNESS: But it's also not unusual.</p> <p>3 That's part of their marketing. They view that as their</p> <p>4 marketing activities.</p> <p>5 And another company that does it regularly</p> <p>6 is -- if I can remember who built the -- the AC</p> <p>7 Marriott -- Lloyd Construction has done pro bono</p> <p>8 profiles, cost estimates. We've -- we've had the same</p> <p>9 thing on highways when we did the Aerospace Parkway. We</p> <p>10 had two or three engineering firms give us concepts at</p> <p>11 no cost.</p> <p>12 BY MR. SANDEFUR:</p> <p>13 <b>Q. And did you end up hiring those engineering</b></p> <p>14 <b>firms?</b></p> <p>15 A. We did hire one of them, AECOM, A-E-C-O-M.</p> <p>16 MR. SANDEFUR: I think that's it. I think</p> <p>17 that's all the questions that we have, unless I suddenly</p> <p>18 remember something I've forgotten, but that's it.</p> <p>19 MR. FLAGG: We have a few.</p> <p>20 EXAMINATION</p> <p>21 BY MR. FLAGG:</p> <p>22 <b>Q. Let's make sure we're clear on the time line.</b></p> <p>23 <b>You talked about conversations in</b></p> <p>24 <b>September 2014 with World View; right?</b></p> <p>25 A. Correct.</p>	<p style="text-align: right;">Page 79</p> <p>1 <b>have the number wrong, but in any event, it's a</b></p> <p>2 <b>memorandum from Mr. Huckelberry to Tom Burke about</b></p> <p>3 <b>procurement. You're copied on that.</b></p> <p>4 <b>Did you have any discussions with</b></p> <p>5 <b>Mr. Huckelberry or Mr. Burke after this memorandum came</b></p> <p>6 <b>out about the -- the procurement process for Swaim or</b></p> <p>7 <b>Barker Morrissey?</b></p> <p>8 A. Not really. I talked to them about the</p> <p>9 financing options, but that was all.</p> <p>10 <b>Q. That's -- when we're talking about the last</b></p> <p>11 <b>paragraph on page 1, which is 1877 on the bottom right,</b></p> <p>12 <b>that's the second question that Mr. Huckelberry had for</b></p> <p>13 <b>Mr. Burke related to financing.</b></p> <p>14 A. That's correct.</p> <p>15 <b>Q. Okay. But the first question, which is in the</b></p> <p>16 <b>paragraph above that, and I'll just read it, it says,</b></p> <p>17 <b>"First, to inquire of you and the Procurement Director</b></p> <p>18 <b>the most appropriate method to employ World View's</b></p> <p>19 <b>project architect, Swaim and Associates, to complete the</b></p> <p>20 <b>necessary design, planning, programming, and</b></p> <p>21 <b>construction drawings for a new facility if they choose</b></p> <p>22 <b>Pima County to locate their headquarters," did you have</b></p> <p>23 <b>any involvement with that inquiry from Mr. Huckelberry?</b></p> <p>24 A. I was contacted by Tom Burke --</p> <p>25 <b>Q. Okay.</b></p>

## **Exhibit 7**



IN THE SUPERIOR COURT OF THE STATE OF ARIZONA

IN AND FOR THE COUNTY OF PIMA

RICHARD RODGERS; SHELBY	)	
MAGNUSON-HAWKINS; and DAVID	)	
PRESTON,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	No. C20161761
	)	
CHARLES H. HUCKELBERRY, in his	)	
official capacity as County	)	
Administrator of Pima County;	)	
SHARON BRONSON, RAY CARROLL,	)	
RICHARD ELIAS, ALLYSON MILLER,	)	
and RAMON VALADEZ, in their	)	
official capacities as members	)	
of the Pima County Board of	)	
Supervisors; PIMA COUNTY, a	)	
political subdivision of the	)	
State of Arizona,	)	
	)	
Defendants.	)	
_____	)	

DEPOSITION OF PHIL SWAIM

Tucson, Arizona  
April 9, 2018  
12:59 p.m.

REPORTED BY:  
Thomas A. Woppert, RPR  
AZ CCR No. 50476

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KATHY FINK & ASSOCIATES  
2819 East 22nd Street  
Tucson, Arizona 85713  
(520)624-8644

<p style="text-align: right;">Page 16</p> <p>1 MR. FLAGG: Form.</p> <p>2 THE WITNESS: Not specifically, though they're</p> <p>3 similar in terms of -- from a process standpoint, process</p> <p>4 design.</p> <p>5 BY MR. SANDEFUR:</p> <p>6 Q. When you say process design, are you talking</p> <p>7 about the building itself or how you go about designing</p> <p>8 it?</p> <p>9 A. How we go about designing. Form follows</p> <p>10 function.</p> <p>11 Q. And in what way does the form follow the</p> <p>12 function that's similar between those two things?</p> <p>13 A. I'm not a medical lab guy. My other partners</p> <p>14 do that, so I don't know if I could be that specific about</p> <p>15 that.</p> <p>16 Q. Okay. Have you ever designed a balloon</p> <p>17 manufacturing facility before?</p> <p>18 A. No.</p> <p>19 Q. Have you ever designed anything similar to that</p> <p>20 before?</p> <p>21 A. We've done other manufacturing facilities.</p> <p>22 Q. Such as what?</p> <p>23 A. A to Z Manufacturing.</p> <p>24 Q. Would you say that the balloon manufacturing</p> <p>25 project is something that's a specialty of Swaim's?</p>	<p style="text-align: right;">Page 18</p> <p>1 you answer that?</p> <p>2 A. It was -- it was definitely a very unusual</p> <p>3 project, a lot of specific details that were very unique</p> <p>4 from any other project. I mean, I don't -- I don't know</p> <p>5 if anybody can come up with another balloon manufacturing</p> <p>6 facility to -- to have on their resume, so --</p> <p>7 Q. But you haven't -- Swaim hasn't built a balloon</p> <p>8 manufacturing facility before?</p> <p>9 A. No.</p> <p>10 Q. Okay. When you had that first call, were you</p> <p>11 told how much money the overall cost should be?</p> <p>12 A. No.</p> <p>13 Q. Are there other architects in the county that</p> <p>14 you would say are qualified to build a balloon</p> <p>15 manufacturing facility?</p> <p>16 MR. FLAGG: Foundation.</p> <p>17 THE WITNESS: I don't know if they are or not.</p> <p>18 BY MR. SANDEFUR:</p> <p>19 Q. But there are other architects in the county;</p> <p>20 right?</p> <p>21 A. There are other architects in the county.</p> <p>22 Q. Do you know whether any of them have had any</p> <p>23 experience building something similar to a balloon</p> <p>24 manufacturing facility?</p> <p>25 A. I would not anticipate that they would.</p>
<p style="text-align: right;">Page 17</p> <p>1 A. It is now.</p> <p>2 Q. Have you built a balloon launch pad before?</p> <p>3 A. No.</p> <p>4 Q. Is it unusually difficult to build a balloon</p> <p>5 launch pad?</p> <p>6 A. There are a lot of details that certainly went</p> <p>7 into it, absolutely.</p> <p>8 Q. Is it more difficult than the other</p> <p>9 manufacturing facility that you mentioned, the A to Z</p> <p>10 Manufacturing?</p> <p>11 MR. FLAGG: Form.</p> <p>12 THE WITNESS: They're all different.</p> <p>13 BY MR. SANDEFUR:</p> <p>14 Q. What I'm getting at, is there -- you know,</p> <p>15 obviously there would be a difference between like</p> <p>16 building a two-story residence and building the Empire</p> <p>17 State Building. That would be a very drastic difference.</p> <p>18 On the other hand, there would be a difference between</p> <p>19 building one grocery store versus another grocery store,</p> <p>20 and that wouldn't be that much of a difference.</p> <p>21 What I'm trying to get at is, how -- where on</p> <p>22 that scale is the difference between the manufacturing</p> <p>23 facility that you described and the balloon manufacturing</p> <p>24 facility and the launch pad here? So when I say was it an</p> <p>25 unusual project, an unusually difficult project, how would</p>	<p style="text-align: right;">Page 19</p> <p>1 Q. Do you know whether any of them have experience</p> <p>2 that would be similar to building a balloon launch pad?</p> <p>3 A. No, I would -- no, I would say no.</p> <p>4 Q. Have you ever considered that question before?</p> <p>5 A. No.</p> <p>6 Q. Was there ever any discussion on that phone</p> <p>7 call that you mentioned or afterwards when you were asked</p> <p>8 to recommend any other architects for the project?</p> <p>9 A. I was not.</p> <p>10 Q. Were you ever asked whether there were other</p> <p>11 architects that had relevant experience for projects like</p> <p>12 this?</p> <p>13 A. I was not.</p> <p>14 Q. In this document we looked at here, it refers</p> <p>15 to Swaim in the next paragraph as World View's project</p> <p>16 architect. Was Swaim World View's project architect in</p> <p>17 November of 2015?</p> <p>18 A. No. We were not under contract.</p> <p>19 Q. Were you under contract to the county?</p> <p>20 A. No.</p> <p>21 Q. Do you know whether Barker Morrissey was the</p> <p>22 project contractor in November 2015?</p> <p>23 A. They were not. There were no contracts.</p> <p>24 Q. Okay. I'm going to show you this document</p> <p>25 here.</p>

<p style="text-align: right;">Page 24</p> <p>1       <b>Q. And this says at the top World View estimate,</b>  2       <b>and it's by Barker Morrissey. Did you consult with Barker</b>  3       <b>Morrissey when they were preparing this estimate?</b>  4       A. Yes.  5       <b>Q. Do you know whether this is the very first</b>  6       <b>estimate that Barker Morrissey did on this project?</b>  7       A. I don't know for sure, but I would assume so  8       based upon an August 25th date.  9       <b>Q. Do you remember what kind of information you</b>  10       <b>gave to Barker Morrissey to help them prepare this</b>  11       <b>estimate?</b>  12       A. Building size, systems requirements, that sort  13       of thing. It's like they had a concept -- some sort of a  14       conceptual plan in front of them as well.  15       <b>Q. These drawings here on pages 6825 and the pages</b>  16       <b>after that, did you refer them to those drawings?</b>  17       A. Yes. I don't see a date on those, but --  18       <b>Q. Forgive me because I know really very little</b>  19       <b>about architecture. I always kind of wanted to do it.</b>  20       <b>But when you want to do a project like this, when you get</b>  21       <b>a call like this from somebody and they say, we want, you</b>  22       <b>know, a building, a manufacturing facility, and they give</b>  23       <b>you the size and stuff, do you immediately go back to your</b>  24       <b>office and begin drawing or not? I mean, what are the</b>  25       <b>steps? Walk me through that process.</b></p>	<p style="text-align: right;">Page 26</p> <p>1       A. Architect in training. I think he was a couple  2       years out of school, not registered.  3       <b>Q. Okay. And that person does the drawings, the</b>  4       <b>elevations, the measurements, that sort of thing?</b>  5       A. Correct.  6       <b>Q. And how long would you say it would take to</b>  7       <b>prepare the drawings that we're looking at here?</b>  8       A. I don't know for sure. I'd have to look and  9       see what -- the specific date. To do something  10       conceptual, I mean, I don't know in terms of numbers of  11       hours or days. My guess is we probably spent a week or,  12       you know, a few days or something like that to be able to  13       come up with these initially.  14       <b>Q. So --</b>  15       A. I don't know for sure.  16       <b>Q. So maybe half a week?</b>  17       A. Maybe, yeah. Jason's pretty quick.  18       <b>Q. When you do those drawings and it takes half a</b>  19       <b>week or whatever, do you normally charge a customer for</b>  20       <b>doing that?</b>  21       A. No, not necessarily.  22       <b>Q. When you say not necessarily, do you mean</b>  23       <b>sometimes you do and sometimes you don't?</b>  24       A. If we already have a contract, sure, we'll  25       charge them, but this was done more as a community service</p>
<p style="text-align: right;">Page 25</p> <p>1       A. Well, this was not a typical, you know,  2       project. And this was not our project at this point.  3       This was saying conceptually what -- what could we show  4       might be possible for World View so we could determine  5       what it might take to be able to propose to them to keep  6       them in Tucson. I mean, it's typically a process. You --  7       you meet with the clients, you understand what their --  8       their building requirements are to be able to -- and  9       create a document of some sort of program to be able to  10       then do a conceptual design as a place to be able to  11       start or do design options.  12       <b>Q. Do you visit the site before you draw anything?</b>  13       A. Typically, yes.  14       <b>Q. Did you visit the site in this case?</b>  15       A. Did not.  16       <b>Q. How many staff would you say were involved in</b>  17       <b>preparing the drawings for this initial estimate?</b>  18       A. One.  19       <b>Q. Was that yourself?</b>  20       A. No, an additional staff person. That would be  21       one in addition to myself.  22       <b>Q. And that additional staff person is an</b>  23       <b>architect?</b>  24       A. Is not.  25       <b>Q. What is that person's title?</b></p>	<p style="text-align: right;">Page 27</p> <p>1       than a -- than as a -- certainly we didn't have a  2       contract.  3       <b>Q. Okay. But when it's not done as a community</b>  4       <b>service, like if I wanted you to build me a building and I</b>  5       <b>came to you and said, here's the size building I want, and</b>  6       <b>then you had Jason go and spend a half a week drawing</b>  7       <b>those out, would you charge me for that?</b>  8       A. Again, not necessarily. There are times that  9       we do some early work with -- with potential clients or  10       with others that we know need assistance, Salvation Army.  11       I mean, there's a variety of people and things around the  12       community that we do to be able to -- that we do pro bono  13       to be able to assist.  14       <b>Q. But that's kind of unusual, isn't it?</b>  15       A. No.  16       <b>Q. So most of your work is done for free?</b>  17       A. No.  18       <b>Q. So do you normally charge people for your work?</b>  19       A. But early on, it's not unusual. We don't  20       typically advertise. We -- we -- we assist in the  21       community, but no, it's -- eventually yes, the goal is to  22       be able to charge for work.  23       <b>Q. Okay. So in a case where it's not a community</b>  24       <b>project, like I'm just Tim the lawyer and I need a law</b>  25       <b>office, I would come to you and I'd say, I have a site,</b></p>

1 able to meet a construction budget that Barker was working  
2 with and assisting with -- to make sure they had complete  
3 soft cost coverage.

4 **Q. So by the time you got involved in coming up**  
5 **with that bottom line number, Barker had already come up**  
6 **with a number?**

7 A. I'm not sure what you're --

8 **Q. Well, I'm confused because it seems -- I can't**  
9 **understand your answer. So when they first came to you**  
10 **and said, we'd like you to come up with some preliminary**  
11 **idea for this project, at that point they didn't have a**  
12 **number; right?**

13 A. I don't recall if they did that very first  
14 meeting or not. And Barker I don't believe was in that  
15 very first meeting that we had.

16 **Q. That's the August 20th, 2015, meeting?**

17 A. Maybe he was -- yeah, I don't recall.

18 **Q. Okay.**

19 A. It's been a while.

20 **Q. Because the notes from the August 20th, 2015,**  
21 **meeting say Brian Barker on there.**

22 A. Uh-huh.

23 **Q. So when the project was -- when you were first**  
24 **talked to about this project, they didn't have a bottom**  
25 **line number; right? Is that what you're saying?**

1 A. I don't believe so. I'm not quite sure when  
2 they came up -- how -- when the budgets were established.

3 **Q. Okay. But at some point in the process, a**  
4 **number was come up with how much they were willing to**  
5 **spend?**

6 A. Correct.

7 **Q. And you had some involvement with coming up**  
8 **with the number of how much they were willing to spend?**

9 A. You know, a lot of that -- that budget was  
10 actually established, I believe, based upon sort of  
11 industry standards for a manufacturing facility.

12 **Q. And do you know who did that?**

13 A. I don't know for sure.

14 **Q. It wasn't Swaim?**

15 A. No.

16 **Q. On other county projects that you've been**  
17 **involved in, have you normally been brought in at such an**  
18 **early stage in the process?**

19 A. No, not typically.

20 **Q. And let's look at the next document here.**  
21 **(Deposition Exhibit 4 marked for identification)**

22 BY MR. SANDEFUR:

23 **Q. This document is dated January 19th, 2016.**  
24 **Have you seen this before?**

25 A. Yes, I believe I have.

1 **Q. Do you remember when you first saw this**  
2 **document?**

3 A. Probably on the 19th.

4 **Q. And if you'll flip to the back here, the second**  
5 **to last page which at the bottom right is numbered 39, it**  
6 **says in here that Swaim provided months of services on**  
7 **this project without compensation. Is that right?**

8 A. Uh-huh. Yes.

9 **Q. How many manhours, roughly speaking, would you**  
10 **say that you spent on this project before January of 2016?**

11 A. I have no idea.

12 **Q. Was it a lot?**

13 A. A lot is all relative. It was a fair number,  
14 but I don't -- it wasn't extreme.

15 **Q. You say that four people were involved in this**  
16 **project from beginning to end?**

17 A. They weren't -- only Jason was involved up  
18 front here in this part of the process.

19 **Q. In January of 2016?**

20 A. Up until January.

21 **Q. So only Jason --**

22 **What's his last name?**

23 A. Biaocci.

24 **Q. Only Jason Biaocci was involved in this project**  
25 **from August 2015 to January 2016 in addition to yourself?**

1 A. Correct.

2 **Q. Was it his full-time job?**

3 A. Oh, no.

4 **Q. Did he work late hours to do this or was this**  
5 **his regular -- during his regular working day?**

6 A. Regular working day.

7 **Q. And why did you do it for no money?**

8 A. Community service.

9 **Q. And what do you mean by community service?**

10 A. It is basically economic development. Tucson  
11 is -- as we're trying to make a transition from an economy  
12 based upon growth to an economy based upon business, it's  
13 imperative that we find companies to be able to stay in  
14 Tucson. And after losing some of Raytheon's growth to  
15 Alabama, I think the community realized we couldn't afford  
16 to continue to lose -- lose jobs, especially in an  
17 industry like aerospace that's really something that's  
18 very important to the community.

19 **Q. And that commitment to the community was -- I**  
20 **assume other people were aware of your concerns in this**  
21 **regard. Is that why Mr. Hammond called you about this**  
22 **project in August of 2015?**

23 A. I'm not sure exactly why Mike would call me  
24 except that we're the -- probably the largest  
25 architectural firm in town and have the capability to be

<p style="text-align: right;">Page 36</p> <p>1 able to -- to assist.</p> <p>2 <b>Q. Had you ever worked with Mr. Hammond on any</b></p> <p>3 <b>projects before this?</b></p> <p>4 A. Have not.</p> <p>5 <b>Q. Did you know him before this?</b></p> <p>6 A. I do. I have.</p> <p>7 <b>Q. Now, in looking at these documents, it looks</b></p> <p>8 <b>like Barker Morrissey did a lot of revisions of the</b></p> <p>9 <b>estimates of what it would cost to build this thing and</b></p> <p>10 <b>all that. And each time they did a revision or an update</b></p> <p>11 <b>in the course of the project planning, did they have to</b></p> <p>12 <b>come to you for further drawings and specifications?</b></p> <p>13 A. Not necessarily, but we did continue to -- to</p> <p>14 update the -- the document as something that reflected the</p> <p>15 budget or World View's needs.</p> <p>16 <b>Q. And -- well, did you do an unusual amount of</b></p> <p>17 <b>revision of the project during the late part of 2015 or</b></p> <p>18 <b>was it pretty ordinary?</b></p> <p>19 A. Pretty ordinary.</p> <p>20 <b>Q. How many revisions and changes and things would</b></p> <p>21 <b>you say that was?</b></p> <p>22 A. I really don't know. I have no idea.</p> <p>23 <b>Q. Was it extensive work?</b></p> <p>24 A. Not necessarily, no.</p> <p>25 <b>Q. When you say not necessarily, do you mean that</b></p>	<p style="text-align: right;">Page 38</p> <p>1 <b>Q. There wasn't another architect involved in this</b></p> <p>2 <b>case; right?</b></p> <p>3 A. Correct.</p> <p>4 <b>Q. Okay. So was it your understanding that if the</b></p> <p>5 <b>project were green lighted that Swaim would be the</b></p> <p>6 <b>architect on this project?</b></p> <p>7 A. No, not necessarily.</p> <p>8 <b>Q. Would it have been possible for another</b></p> <p>9 <b>architect to take over the project in January of 2016?</b></p> <p>10 A. Not with the schedule that was put forward at</p> <p>11 that point.</p> <p>12 <b>Q. What about in November of 2015?</b></p> <p>13 A. Possibly. They still would have had to start</p> <p>14 over.</p> <p>15 <b>Q. So when you say the schedule that was in place</b></p> <p>16 <b>by that point, you're talking about what?</b></p> <p>17 A. There was a requirement that came on that fall</p> <p>18 that there would be one year to be able to design and</p> <p>19 build the building.</p> <p>20 <b>Q. So one year meaning have it finished by</b></p> <p>21 <b>November of 2016?</b></p> <p>22 A. I can't recall exactly when the November</p> <p>23 date -- it kind of depended upon when it would start.</p> <p>24 <b>Q. You say that another architect had -- if</b></p> <p>25 <b>another architect had taken over the project in late 2015</b></p>
<p style="text-align: right;">Page 37</p> <p>1 <b>in some ways it was extensive?</b></p> <p>2 A. No, this was still just conceptual design at</p> <p>3 this point.</p> <p>4 <b>Q. Why did you --</b></p> <p>5 <b>I already asked that.</b></p> <p>6 <b>You say you've worked on other projects with</b></p> <p>7 <b>the county before. Have you done that on a pro bono or</b></p> <p>8 <b>community service basis also?</b></p> <p>9 A. Not that I'm aware of at this point. I</p> <p>10 can't -- nothing I can think of because this was not</p> <p>11 really -- this was not working for Pima County, this was</p> <p>12 working for whatever the overall committee was.</p> <p>13 <b>Q. Like this group of businessmen that was listed</b></p> <p>14 <b>there wanting to keep the company in the county?</b></p> <p>15 A. That's correct.</p> <p>16 <b>Q. But you say that when you have worked for the</b></p> <p>17 <b>county, you've never done that pro bono or for free?</b></p> <p>18 A. Not typically.</p> <p>19 <b>Q. Ever?</b></p> <p>20 A. We were asked to assist for Brandi Fenton</p> <p>21 Memorial Park. That was probably back in the late 1990s</p> <p>22 or so. I believe we did some volunteer work up front.</p> <p>23 <b>Q. And in that case, you say assist. Was there</b></p> <p>24 <b>another architect involved in that case?</b></p> <p>25 A. There was not.</p>	<p style="text-align: right;">Page 39</p> <p>1 <b>that they would have had to start over. You mean that</b></p> <p>2 <b>they couldn't have used your plans; right?</b></p> <p>3 A. Correct.</p> <p>4 <b>Q. Okay. What about another contractor? Could</b></p> <p>5 <b>another contractor other than Barker Morrissey have used</b></p> <p>6 <b>your plans to complete the project?</b></p> <p>7 A. They wouldn't have been able to use our plans,</p> <p>8 no.</p> <p>9 <b>Q. Why not?</b></p> <p>10 A. At this point those were our own documents.</p> <p>11 <b>Q. So if you design a project and you're working</b></p> <p>12 <b>with another -- with a contractor to come up with</b></p> <p>13 <b>estimates, and then the customer says, well, I don't like</b></p> <p>14 <b>that contractor, I want you to go with a different</b></p> <p>15 <b>contractor, then you have to restart all the drawings?</b></p> <p>16 A. No.</p> <p>17 <b>Q. So that new contractor could use the existing</b></p> <p>18 <b>plans; right?</b></p> <p>19 A. That could be -- that could work.</p> <p>20 <b>Q. So why could it not work in this case?</b></p> <p>21 A. The contractor wouldn't have all the prior</p> <p>22 knowledge of the -- of this very specific project.</p> <p>23 <b>Q. I guess I don't understand really how</b></p> <p>24 <b>architecture and contracting interact because I would</b></p> <p>25 <b>think that those -- that information would be in the</b></p>

<p style="text-align: right;">Page 40</p> <p>1 plans. Is it not?</p> <p>2 A. It would take time to get knowledgeable. Could</p> <p>3 any lawyer come in and take over your case and start from</p> <p>4 day one and -- and not miss a beat? It would take him a</p> <p>5 while to be able to get caught up and start from the --</p> <p>6 and get going again.</p> <p>7 Q. A good point although an ironic question to ask</p> <p>8 under the circumstances since in fact I did take this case</p> <p>9 over in midstream from another attorney.</p> <p>10 A. And it has taken a while to get caught up?</p> <p>11 Q. Yes.</p> <p>12 A. Yes, it has. That's right.</p> <p>13 Q. So that's what you're referring to? You say</p> <p>14 that it would have been difficult, say, in November of</p> <p>15 2015 for a contracting firm other than Barker Morrissey to</p> <p>16 come in and get up to speed on your plans in time for the</p> <p>17 project to be finished? Is that what you're saying?</p> <p>18 A. Not just on our plans but all the information</p> <p>19 that was -- that we -- that we learned from World View and</p> <p>20 the ACA and everybody about -- about the project.</p> <p>21 Q. Sure.</p> <p>22 Was it your understanding in working on this</p> <p>23 project that Barker Morrissey would be the contractor on</p> <p>24 the project if it were given the green light by the</p> <p>25 county?</p>	<p style="text-align: right;">Page 42</p> <p>1 green lighted, Barker Morrissey would be the contractor?</p> <p>2 A. No, I was not assuming that either Swaim or</p> <p>3 Bark was automatically to be given the project.</p> <p>4 Q. All right. Let's take a look at this document</p> <p>5 here.</p> <p>6 (Deposition Exhibit 5 marked for identification)</p> <p>7 BY MR. SANDEFUR:</p> <p>8 Q. And these are more handwritten notes, and</p> <p>9 they're dated August 28, 2015. And it says here, World</p> <p>10 View, Mike in Mexico, Barker Morrissey, Swaim.</p> <p>11 Do you recall a meeting on August 28th, 2015?</p> <p>12 A. I don't remember that date specifically, no.</p> <p>13 Q. Do you know whether -- do you know how many</p> <p>14 meetings you would say you attended with this group that</p> <p>15 you were talking about?</p> <p>16 A. Probably five to 10. I don't know</p> <p>17 specifically.</p> <p>18 Q. Were they all day meetings or were they just</p> <p>19 lunch meetings or what?</p> <p>20 A. No, typically they were an hour or so late in</p> <p>21 the afternoon.</p> <p>22 Q. And you would get together to talk about the</p> <p>23 progress of the work or what?</p> <p>24 A. Or review costs, help -- help the team develop</p> <p>25 budgets and that sort of thing, learn a little bit more</p>
<p style="text-align: right;">Page 41</p> <p>1 A. No.</p> <p>2 Q. So it seems a little strange to me that you're</p> <p>3 saying that you worked on this project from August of 2015</p> <p>4 until January of 2016 doing all these plans and revisions</p> <p>5 and estimates with Barker Morrissey on board, having all</p> <p>6 these meetings and things and both of you doing it for</p> <p>7 free knowing that nobody else could step in and take over</p> <p>8 the project, but at the same time, you're saying it was</p> <p>9 not your understanding that Swaim would be the architect</p> <p>10 if the project were given the green light and it was not</p> <p>11 your understanding that Barker Morrissey would be the</p> <p>12 contractor if the project were given the green light?</p> <p>13 A. My recollection is we worked on the project</p> <p>14 from August through sometime in early October. There was</p> <p>15 a deadline to provide information for World View's board</p> <p>16 of directors meeting where they were comparing competing</p> <p>17 offers, so we stopped sometime in October; didn't know</p> <p>18 when the project would start or what the competition would</p> <p>19 lead to from there, so --</p> <p>20 Q. Were you aware of the possibility that the</p> <p>21 county might green light the project and choose you as the</p> <p>22 architect but not choose Barker Morrissey as the</p> <p>23 contractor?</p> <p>24 A. I was not aware of that sort of thing.</p> <p>25 Q. So you assumed then that if the project were</p>	<p style="text-align: right;">Page 43</p> <p>1 from World View.</p> <p>2 Q. So when you say help them develop budgets, who</p> <p>3 were you helping develop a budget?</p> <p>4 A. Pima County, ACA, they were trying to</p> <p>5 understand what the -- what this facility might cost.</p> <p>6 Q. Now, I'm confused. I want to understand.</p> <p>7 Earlier you said that you were not involved in formulating</p> <p>8 the budget that Pima County came up with for this project.</p> <p>9 Did I misunderstand?</p> <p>10 A. I think they had an overall budget. They were</p> <p>11 trying to see what could they fit within that budget at</p> <p>12 some point along the way. Again, I'm not exactly sure</p> <p>13 once that was determined.</p> <p>14 Q. That makes sense.</p> <p>15 A. If you say you've got 14 and a half million</p> <p>16 dollars, you've got to figure out how that gets divided</p> <p>17 up.</p> <p>18 Q. Right. But you don't know where that 14 and a</p> <p>19 half number came from?</p> <p>20 A. I do not know specifically.</p> <p>21 Q. All right. Let's look at the next document</p> <p>22 here.</p> <p>23 (Deposition Exhibit 6 marked for identification)</p> <p>24 BY MR. SANDEFUR:</p> <p>25 Q. This looks like it's a bunch of e-mails from</p>

1 No, actually that's not the case. There was  
2 some site plans and elevations.

3 **Q. Okay. Do you know roughly speaking how much --**  
4 **how much manhours were spent on that project?**

5 A. None. I have no idea.

6 **Q. And it says here in this letter, this World**  
7 **View letter we were looking at, World View accepts the**  
8 **Pima county proposal. We agree that Swaim Associates will**  
9 **be the architect.**

10 Was it your understanding that the county was  
11 going to suggest to World View that Swaim be the  
12 architect?

13 A. I was not aware of that.

14 **Q. Do you know if any other architects in the**  
15 **county do the kind of community service work that you've**  
16 **been talking about for free?**

17 A. I'm not aware.

18 **Q. Just to be clear, you mean you don't know the**  
19 **answer to that question or do you mean that there are**  
20 **none?**

21 A. I -- I'm not aware of other -- I -- I don't  
22 know -- yeah, I don't know the answer.

23 **Q. Did you ever get any indication that any other**  
24 **architect was being considered for this project?**

25 A. No idea.

1 **Q. Does that mean that you didn't get any**  
2 **indication?**

3 A. No indication.

4 **Q. Did you get any indication that any other**  
5 **contractor was being considered for this project?**

6 A. I was not aware of that sort of process going  
7 on.

8 **Q. Did you ever suggest that the county or World**  
9 **View consider another architect?**

10 A. No.

11 **Q. Did you ever suggest that the county or World**  
12 **View consider another contractor?**

13 A. No.

14 **Q. Did you ever consider asking the county to sign**  
15 **a contract with Swaim before January of 2016?**

16 A. No.

17 **Q. Have you heard the term contractor at risk?**

18 MR. FLAGG: Form.

19 THE WITNESS: No, but I've heard construction  
20 manager at risk.

21 BY MR. SANDEFUR:

22 **Q. Okay. And was there a construction manager at**  
23 **risk involved in this case?**

24 A. The ultimate contract that Barker Morrissey  
25 signed was a construction manager at risk contract.

1 **Q. In January of 2016?**

2 A. Correct.

3 **Q. Were your services as an architect sought in**  
4 **any kind of an at risk situation?**

5 MR. FLAGG: Form.

6 THE WITNESS: I don't know what you're talking  
7 about from that standpoint.

8 BY MR. SANDEFUR:

9 **Q. Did you have any conversations with World View**  
10 **prior to January of 2016 about whether or not you would be**  
11 **the ultimate architect on the project?**

12 A. I did not.

13 **Q. Did you ever have any conversations with World**  
14 **View or anyone at the county about what to do in the event**  
15 **that Swaim was not chosen as the architect for the**  
16 **project?**

17 A. I did not.

18 **Q. Did you have any conversations with anyone**  
19 **about what to do if Barker Morrissey were not chosen as**  
20 **the contractor?**

21 A. I did not.

22 **Q. Let's look at this document here.**  
23 **(Deposition Exhibit 9 marked for identification)**

24 BY MR. SANDEFUR:

25 **Q. And this is a set of handwritten notes dated**

1 December 22nd, 2015. And it says -- at the bottom of  
2 these notes, it says, Swaim, slash, B-M, assume mutually  
3 agreeable contractor.

4 Do you know what this refers to?

5 A. No. They aren't my notes.

6 **Q. Was Barker Morrissey a mutually agreeable**  
7 **contractor between you and World View in December of 2015?**

8 A. I -- I would assume so, but I -- I don't know  
9 specifically. I didn't talk to anybody about that.

10 **Q. Did you talk to anybody at Barker Morrissey**  
11 **about it?**

12 A. I'm not sure they would have wanted to do the  
13 project, but no, I did not -- I was not talking with them  
14 at that point.

15 **Q. Did you have any conversations with Barber**  
16 **Morrissey at any time about the possibility that they**  
17 **would not be chosen as the contractor?**

18 A. I did not have that conversation.

19 **Q. Any conversations of that sort about whether**  
20 **Swaim would not be chosen as the architect?**

21 A. I didn't have that conversation.

22 (Deposition Exhibit 10 marked for identification)

23 BY MR. SANDEFUR:

24 **Q. Is this the contract that you did sign with the**  
25 **county?**

1 A. It is.

2 **Q. And it says here -- on this first page, it**  
3 **says -- the third whereas, it says, whereas, due to**  
4 **consultant's past experience and knowledge specific to**  
5 **this project, it was determined under the emergency**  
6 **procurement provisions of blah, blah, blah.**

7 **What do you understand that to mean?**

8 A. That -- that based upon our knowledge of the  
9 project and the experience with the client that we were  
10 probably the only ones who could possibly get the job done  
11 in the time that they agreed to with World View, World  
12 View required.

13 **Q. So by this time then, Swain was so involved in**  
14 **the project that the county thought it would be a bad idea**  
15 **to go with anyone other than Swain?**

16 A. I would assume that was probably -- yeah. I  
17 wasn't -- wasn't in their mind, but that's a real logical  
18 thought.

19 **Q. Have you been paid since January 2016 for any**  
20 **of the work done prior to January 2016?**

21 A. No.

22 **Q. Are you going to be?**

23 A. No.

24 **Q. Did the project get completed?**

25 A. It did.

1 **Q. In a timely manner?**

2 A. It did.

3 **Q. And within the budget?**

4 A. Yep.

5 MR. SANDEFUR: I think that's all that I've got  
6 and we'll take a break. And let me double-check that, and  
7 then we'll come back and do whatever you want to do. All  
8 right. Thanks.

9 (Recess)

10 BY MR. SANDEFUR:

11 **Q. I did have just a handful of other things.**

12 **I think you mentioned that you knew**

13 **Mr. Hammond, who called you in August of 2015 beforehand.**

14 A. Yes.

15 **Q. Is that right?**

16 **How did you know him?**

17 A. Mike was a real estate broker in town and I  
18 think I was on some committees here in Tucson. I don't  
19 know if it was the Southern Arizona Leadership Council or  
20 whatever it might have been. We both were sort of  
21 involved in the community.

22 **Q. Do you know whether Mr. Hammond contacted any**  
23 **other architects before he contacted you?**

24 A. I don't.

25 **Q. You mentioned that you did not visit the site**

1 **before preparing the initial conceptual drawings for the**  
2 **project; is that right?**

3 A. I think by the -- for that week, it -- I  
4 believe it was a few weeks or so before we actually got  
5 out to the site.

6 **Q. Okay. But you have visited the site?**

7 A. Oh, sure.

8 **Q. Do you know when --**

9 A. Eventually.

10 **Q. When was the first time you were there?**

11 A. I do not recall.

12 **Q. Do you think it was in August of 2015?**

13 A. Probably not.

14 **Q. Was it maybe September?**

15 A. Possibly sometime that fall. I don't -- I  
16 really don't know.

17 **Q. After January 19th, 2016, how much more work**  
18 **was involved in turning the conceptual drawings into the**  
19 **final plans?**

20 A. A lot. We then go through our process, our  
21 complete contract.

22 **Q. So you said earlier that four people had been**  
23 **involved on this project. Was it at that point that the**  
24 **three people -- additional people came on?**

25 A. Correct.

1 **Q. And that's in addition to yourself?**

2 A. Yes.

3 **Q. Did you have to go out and remeasure everything**  
4 **or -- I mean, you can't have been starting from scratch;**  
5 **right?**

6 A. Correct. No, we were not starting from scratch  
7 at all. We had the design organization that World View  
8 liked, so, you know, we weren't starting over from that  
9 standpoint at all.

10 **Q. Okay. So how much longer would you say it took**  
11 **from January 19th until you had the finished drawings?**

12 A. I don't have the schedule in front of me, but  
13 it was several months. This project happened so fast that  
14 we -- we did it in phases. We put the bid package out for  
15 the steel three weeks after the contract started, which is  
16 the first time I've ever seen that done in a career. This  
17 is probably one of the fastest project schedules I've ever  
18 seen.

19 **Q. And did you put out any other bids for**  
20 **materials?**

21 A. Well, it was Barker that actually put the bids  
22 out, but we worked with them to create -- to provide the  
23 drawings for those bid packages. There were a whole  
24 series of phase bids along the way. The steel package was  
25 one. They did the elevator in another. They did



<p style="text-align: right;">Page 60</p> <p>1 earthwork and mass grading, a foundation package, a whole  2 series of things.</p> <p>3 <b>Q. Do you know whether that steel bid estimated</b>  4 <b>correctly the amount of steel that was needed?</b></p> <p>5 A. It did. It came in budget.</p> <p>6 <b>Q. And did you -- was -- the bid on the elevator,</b>  7 <b>did it estimate the correct amount of materials and so</b>  8 <b>forth for the elevators?</b></p> <p>9 A. Yes. I mean, at that point, we were bidding  10 those projects because they were long-lead items. That  11 was the only way to really get the project done. And once  12 we knew what those costs were, we knew the amount of money  13 left over to be able to spend.</p> <p>14 <b>Q. Would you say that's the same thing with regard</b>  15 <b>to the grading that you mentioned?</b></p> <p>16 A. In general, but by that point, I think we had  17 some pretty good cost estimates to be able to confirm what  18 was required or what to anticipate.</p> <p>19 <b>Q. So it's accurate then to say that these things</b>  20 <b>that you're talking -- these post-January bids and things</b>  21 <b>that you put out, you were able to do that promptly</b>  22 <b>because you had this information that you had been working</b>  23 <b>with in these preliminary drawings and estimates; right?</b></p> <p>24 A. That certainly helped.</p> <p>25 <b>Q. How much did the conceptual design change after</b></p>	<p style="text-align: right;">Page 62</p> <p>1 <b>Q. And what about the competition related to the</b>  2 <b>chances?</b></p> <p>3 A. They had facilities available. Florida had --  4 had federal funds to -- to be able to help with the  5 competition. Elon Musk in New Mexico really wanted World  6 View.</p> <p>7 <b>Q. So was it a time thing or a money thing?</b></p> <p>8 A. I was not involved in the detailed  9 negotiations.</p> <p>10 <b>Q. Okay. I think that's all.</b></p> <p>11 A. Probably both.</p> <p>12 <b>Q. Probably both you say?</b></p> <p>13 A. Yeah.</p> <p>14 MR. FLAGG: I have some follow-up.</p> <p>15</p> <p>16 EXAMINATION</p> <p>17</p> <p>18 BY MR. FLAGG:</p> <p>19 <b>Q. And, Mr. Swaim, we're kind of awkwardly laid</b>  20 <b>out here. I'm to your right and our court reporter is to</b>  21 <b>your left, but I think our court reporter will be much</b>  22 <b>happier with me if I tell you to kind of speak toward him</b>  23 <b>rather than speaking toward me.</b></p> <p>24 A. Okay.</p> <p>25 <b>Q. And forgive me because I'm more used to working</b></p>
<p style="text-align: right;">Page 61</p> <p>1 <b>January 2016?</b></p> <p>2 A. There were modifications. It was still  3 basically a 200 by 600 building, so the basic organization  4 didn't change. There were certainly revisions and changes  5 along the way.</p> <p>6 <b>Q. I think you mentioned and I -- forgive me for</b>  7 <b>misremembering, but you mentioned when you were talking</b>  8 <b>about some of the community service work you've done, it</b>  9 <b>was either a park or a cemetery that you helped out with.</b></p> <p>10 A. The Brandi Fenton Memorial Park?</p> <p>11 <b>Q. That's it. Did you eventually get chosen as</b>  12 <b>the architect for that project?</b></p> <p>13 A. We did.</p> <p>14 <b>Q. And did you ever get paid for those services?</b></p> <p>15 A. Up front, no.</p> <p>16 <b>Q. At all?</b></p> <p>17 A. No.</p> <p>18 <b>Q. In the e-mail that we talked about where it</b>  19 <b>said, don't feel good about our chances, do you know why</b>  20 <b>you didn't feel good about our chances?</b></p> <p>21 A. I -- no, I don't specifically.</p> <p>22 <b>Q. Is it possible that it was because of the</b>  23 <b>timeline?</b></p> <p>24 A. My understanding is it was based upon the  25 competition between Arizona and Florida and New Mexico.</p>	<p style="text-align: right;">Page 63</p> <p>1 <b>with engineers than architects, but as an architect, do</b>  2 <b>you have a seal that you put on a set of plans when you</b>  3 <b>complete them?</b></p> <p>4 A. I do.</p> <p>5 <b>Q. What does that architect seal mean to you?</b></p> <p>6 A. It's the amount of expertise -- it's -- it's  7 really something that shows a commitment that our clients  8 can -- can rely upon, certainly an amount of education,  9 professional responsibility and ethics and all the sort of  10 things that go along with having a registration.</p> <p>11 <b>Q. And when you put a seal on a set of drawings,</b>  12 <b>is that something that then a contractor can build off of?</b></p> <p>13 A. That's correct.</p> <p>14 <b>Q. How does that differ from a set of conceptual</b>  15 <b>drawings like the ones that Mr. Sandefur has been asking</b>  16 <b>you about?</b></p> <p>17 A. Once my seal goes on it, you know, I'm stamping  18 and saying I'm professionally liable for that, so --</p> <p>19 <b>Q. Was there anything that you prepared before you</b>  20 <b>were under contract with Pima County that you -- with</b>  21 <b>respect to the World View project that you put your</b>  22 <b>architect seal on?</b></p> <p>23 A. No, I don't believe so.</p> <p>24 <b>Q. Okay. Your contract, which has been marked</b>  25 <b>Exhibit 10, I think, I see it there in front of you, your</b></p>

## **Exhibit 8**

8/20/15

WorldView - Jayne, Manilla, Travis  
Brian Barker, Kevin Morrey, Alex Rodriguez (ATC)  
Suzay Camacho (ATA), Kevin Coulton. K.C. MEE  
Phil, Jason (Swain & Assoc).  
Timeframes -

125K → 135 -  
100 x 600 - Balcon MFG. 24' Clear.  
50K High Bay - 106' w/ Crane.  
20K Office -

Mission Control -

25 ft for Central Plant = 80 ft N

Mechanical -

Temp Range -  
Gas storage return area - covered  
Hydrogen

Office - 100

Bridge enters certain areas -  
tower - 9K ft Perme -  
Rail Crane System -  
Enters off - 20 x 20.

9/23/2015  
Meeting

## **Exhibit 9**



## World View Estimate

08/25/15

	Division/Sub-Division	
01	GENERAL CONDITIONS	\$ 514,856
02	EXISTING CONDITIONS	\$ -
	Survey / Permits & Inspections	\$ 95,000
03	CONCRETE	\$ 847,120
04	MASONRY	\$ 6,000
05	METALS	\$ 2,292,900
06	WOOD & PLASTICS	
	Rough Carpentry	\$ 1,500
	Finish Carpentry	\$ -
07	THERMAL & MOISTURE PROTECTION	
	Insulation	\$ -
	Roofing / Siding	\$ -
	Joint sealant and Fire stop	\$ -
08	OPENINGS	\$ 30,500
09	FINISHES	
	Metal Framing & Drywall	\$ -
	Stucco / Plaster	\$ -
	Tiling	\$ 44,150
	Ceilings	\$ -
	Flooring	\$ 81,360
	Wall Coverings	\$ 1,250
	Paint	\$ 7,500
10	SPECIALTIES	
	Visual Display /Signage	\$ 850
	Door & Wall Protection	\$ -
	Toilet & Bath Accessories	\$ 20,400
	Fire Protection Specialties	\$ 8,250
	Postal Specialties	\$ -
	Exterior Specialties	\$ -
	Misc. Specialties	\$ -
11	EQUIPMENT	
	Loading Dock Equipment	\$ 7,000
	Misc. Equipment	\$ 7,000
12	FURNISHINGS	\$ -
13	SPECIAL CONSTRUCTION	\$ -
14	CONVEYING SYSTEMS	\$ -
21	FIRE SUPPRESSION	\$ 290,000
22	PLUMBING	\$ 82,300
23	HVAC	\$ 546,000
25	INTEGRATED AUTOMATION	\$ -
26	ELECTRICAL	\$ 993,800
27	COMMUNICATIONS	\$ -
28	ELECTRONIC SAFETY & AND SECURITY	\$ -
31	EARTHWORK	\$ 298,525
	Storm Water Prevention	\$ 25,000
32	EXTERIOR IMPROVEMENTS	
	Paving	\$ -

	Site Concrete Work	\$	220,000
	Fencing	\$	30,000
	Site Masonry	\$	12,000
	Landscape	\$	56,000
	Misc. Ext. Improvements	\$	-
<b>33</b>	<b>UTILITIES</b>		
	Drainage / Sewer	\$	12,550
	Water	\$	14,550
	Fire Protection	\$	34,100
	Gas	\$	2,400
	Site Electrical	\$	2,400
<b>34</b>	<b>MEZZANINE</b>	\$	-
<b>41</b>	<b>CONTINGENCY</b>	\$	500,000
		Sub-Total	\$ 7,085,261
General Liability Insurance		\$	47,455
Gross Receipts Tax		\$	301,893
Overhead and Profit		\$	474,549
<b>Total</b>		<b>\$</b>	<b>7,909,158</b>

**NOTE: We are assuming that all utilities will be brought to the Property Line by others and will be stubbed within 200' of the Building**

**EXCLUSIONS:**

Off Site Utilities +/- Improvements  
Cranes  
Air Compressor/Compressed Air Distribution  
Paint Booths  
Welding Shop  
Clean Rooms  
Permits  
Tap Fees  
Fire Pump  
Underground Retention/Detention System  
Production/Balloon Area Fit Up  
Utility Company Fees  
Architectural +/- Engineering Design Fees  
ROW Permits +/- Traffic Control Costs

**BREAK OUT BUDGETS:**

Fire Pump	\$	50,233
Launch Pad	\$	1,104,116
Administration Building	\$	1,520,629
Canopy Storage Area	\$	722,012
<b>Total</b>	<b>\$</b>	<b>3,396,989</b>
<b>Total with Breakouts</b>	<b>\$</b>	<b>11,306,147</b>

## **Exhibit 10**



WORLD VIEW BASE BID		
Category	Dollar Amount	\$/SF
General Conditions	\$ 516,396	\$ 3.69
Survey	\$ 35,000	\$ 0.25
Concrete	\$ 821,560	\$ 5.87
Masonry	\$ 6,000	\$ 0.04
Metal Building (Tower included)	\$ 2,254,100	\$ 16.10
Mezzanine Structural Steel	\$ 395,500	\$ 2.83
Exterior Metal Canopy	\$ 91,200	\$ 0.65
Misc. Steel	\$ 66,000	\$ 0.47
Office & Bathroom Finishes	\$ 396,625	\$ 2.83
Misc. Equipment	\$ 14,000	\$ 0.10
Elevator for Office	\$ 60,000	\$ 0.43
ESFR Fire Sprinkler	\$ 290,000	\$ 2.07
Fire Pump	\$ 45,000	\$ 0.32
Plumbing	\$ 105,800	\$ 0.76
HVAC	\$ 650,000	\$ 4.64
Electrical	\$ 904,000	\$ 6.46
Generator	\$ 70,000	\$ 0.50
Paging/Intercom w/ white noise in office	\$ 38,000	\$ 0.27
CCTV	\$ 60,000	\$ 0.43
Card Access	\$ 20,500	\$ 0.15
Rough Grade Site	\$ 222,206	\$ 1.59
Pave site - 2.5" on 4" - 229,000 SF	\$ 519,850	\$ 3.71
Launch Pad	\$ 399,671	\$ 2.85
Misc Site Concrete/Masonry	\$ 226,000	\$ 1.61
Site Fence	\$ 105,000	\$ 0.75
Landscape	\$ 56,000	\$ 0.40
Site Utilities	\$ 66,000	\$ 0.47
Contingency	\$ 500,000	\$ 3.57
<b>SUBTOTAL</b>	<b>\$ 8,934,407</b>	<b>\$ 63.82</b>
General Liability	\$ 59,840	\$ 0.43
Gross Receipts Tax	\$ 380,682	\$ 2.72
Profit & Overhead	\$ 598,400	\$ 4.27
<b>TOTAL</b>	<b>\$ 9,973,329</b>	<b>\$ 71.24</b>

ALTERNATES & OPTIONS		
Chip Seal on AB	\$ 277,115	\$ 1.98
Fire Suppression Storage Tank	\$ 139,535	\$ 1.00
Cranes & Hoist	\$ 328,160	\$ 2.34
<b>TOTAL</b>	<b>\$ 744,811</b>	<b>\$ 5.32</b>



## **Exhibit 11**

## WorldView- Preliminary Budget

11/23/15

	Division/Sub-Division	Amount
01	GENERAL CONDITIONS	\$516,396
02	EXISTING CONDITIONS	
	Survey / special Inspections	\$85,000
03	CONCRETE	\$726,560
04	MASONRY	\$6,000
05	METALS	\$2,806,800
06	WOOD & PLASTICS	
	Rough Carpentry	\$1,500
	Finish Carpentry	\$18,000
07	THERMAL & MOISTURE PROTECTION	
	Insulation	\$6,000
08	OPENINGS	\$141,000
09	FINISHES	
	Metal Framing & Drywall	\$133,425
	Tiling	\$54,150
	Flooring	\$85,800
	Wall Coverings	\$1,250
	Paint	\$30,000
10	SPECIALTIES	
	Visual Display /Signage	\$850
	Toilet & Bath Accessories	\$20,400
	Fire Protection Specialties	\$8,250
11	EQUIPMENT	
	Loading Dock Equipment- Pit levelers	\$7,000
	Lockers / bike lockers	\$7,000
12	Window Treatments	\$2,500
14	Elevator for offices	\$60,000
21	FIRE SUPPRESSION <i>TANKS</i>	\$125,000
	ESFR Fire sprinkler	\$290,000
	Fire Pump - 80 psi	\$45,000
22	PLUMBING	\$105,800
23	HVAC	\$650,000
26	ELECTRICAL	
	Building Electrical	\$1,024,000
	Generator	\$70,000
	CCTV	\$60,000
	Card Access	\$20,500
27	Intercom / Paging system / white noise @ offices	\$38,000
28	ELECTRONIC SAFETY & AND SECURITY	\$0
31	EARTHWORK	

	Clearing, Grubbing, Grading	\$197,206
	Storm Water Prevention	\$25,000
<b>32</b>	<b>EXTERIOR IMPROVEMENTS</b>	
	Paving	\$441,983
	Site Concrete Work	\$250,000
	Fencing	\$65,255
	Site Masonry	\$6,000
	Landscape	\$50,000
<b>33</b>	<b>UTILITIES</b>	
	Drainage / Sewer	\$12,550
	Water	\$14,550
	Fire Protection	\$34,100
	Gas	\$2,400
	Site Electrical	\$2,400
<b>41</b>	<b>Contingency</b>	\$500,000
	Sub-Total	<b>\$8,747,624</b>
	General Liability Insurance	\$58,686
	Gross Receipts Tax	\$387,816
	Overhead and Profit	\$586,859
	<b>Total</b>	<b>\$9,780,986</b>
	<b>1 Year Bond Cost</b>	<b>\$63,524</b>
	<b>Grand Total</b>	<b>\$9,844,509</b>
	<b>Alternates: Includes all mark-ups and Bond</b>	
	insulated metal Panels- Rigid insulation between 2 26 ga metal building panels rather than fibergalss insulation & skrim	\$436,585
	Cranes and Hoists	\$333,043
	450' Dia. Launch pad w/ AB only- No concrete	\$179,004
	450' dia. Launch Pad with AB & 20' concrete outer ring	\$315,840
	450' Asphalt Launch Pad	\$447,511
	450' Dia. Launch Pad- All concrete	\$635,384
	700' dia. Launch pad- all concrete	\$1,521,253
	700' dia. Asphalt launch pad	\$1,082,871
	700' dia. Launch Pad- AB only with 20' concrete outer ring	\$1,227,137

**Exclusions:**

Permits, Governmental fees, inspection fees, tap fees, ROW permits & traffic control, tie downs at launch pad, electrical at launch pad

NOTE" Assuming all utilities are 500 LF from point of connection at building

## **Exhibit 12**



December 23, 2015

Chuck Huckelberry  
Pima County Administrator  
130 W. Congress Street 10<sup>th</sup> floor  
Tucson, AZ 85701

Dear Chuck,

It is with gratitude, excitement and appreciation that I write to announce and inform you that after an exhaustive and competitive site selection process between Arizona, New Mexico and Florida, World View Enterprises, Inc has elected to call Arizona home and make it the world headquarters for the company. We therefore accept your Project Curvature Offer dated October 23, 2015 given the conditions in this letter derived from our work with the Pima County, Arizona Commerce Authority, Sun Corridor and the municipalities.

In light of on-going discussions and final contract documentation with the Arizona Commerce Authority, Pima County, the City of Tucson, the City of Page Arizona, Coconino County and the Sun Corridor, I am providing this letter to you as a contract point of reference to memorialize and ensure that both World View and all stakeholders have clear understanding of the terms, conditions and contract requirements.

### **Assumptions, Terms & Conditions for Project Curvature Contract Acceptance**

#### **Pima County Proposal:**

World View accepts the Pima County proposal with the follow assumptions, contract terms and conditions. The company will move into a new building under lease contract with Pima County to be located at the Pima County Aerospace, Defense and Technology Business and Research Park by approximately November 2016. All launch pad expenditures including land and required improvements, grading, sealing etc. for the 700-foot diameter pad, appropriately spaced from the World View facility, will not be the responsibility of World View and will therefore not be included in the Pima County \$15M building financing package. We agree that Swaim Associates will be the architect and Barker Morrissey the builder. Additionally, we agree to enter into a lease that meet the specified details State of Arizona as described below. World View understands that the operational date for the new facility is as of the effective date of the Arizona Commerce Authority contract thereby qualifying for the tax credit program for 2016 and beyond.



Further, World View expects that the Pima County Building Lease Contract will fully qualify for the Arizona Qualified Facility Refundable Tax Credit Program. World View will become qualified upon the effective date of the contract.

**City of Tucson:**

World View accepts the City of Tucson proposal including that that the City of Tucson will work with Pima County and private contractors to provide all required water infrastructure development.

**Arizona Commerce Authority Proposal:**

World View accepts the Arizona Commerce Authority proposal dated December 9th 2015 with the following assumptions, contract terms and conditions.

**A. Launch Pad**

The World View Headquarters, as specified during the proposal discussions and negotiation, will require a 700ft Launch Pad to be constructed in conjunction with the new building and to be operational no later than the time of moving into the new building.

It is our understanding that the Arizona Commerce Authority will assure that a Launch Pad construction project is funded in a timely manner in accordance with the overall building schedule to be completed in approximately November of 2016. All Launch Pad costs will be funded separately from the Pima County financing proposal for building construction. While Pima County may be the owner of the Launch Pad, the Arizona Commerce Authority will assure that the launch pad is constructed and paid for. The launch pad is to be a facility for the general use of the Aerospace and Defense community and a business attraction for southern Arizona. As part of World View's building lease, World View will provide for the safe operation of the facility by entities wishing to use it for a variety of compatible purposes on an as-available and operationally safe basis.

**B. Arizona Competes Fund**

World View understands that the Arizona Commerce Authority will provide milestone payments that include CapEx. World View understands that the operational date for the new facility is as of the effective date of the contract there by qualifying for the Arizona Competes Fund for 2016 and beyond. World View expects that the Pima County Building Lease Contract will fully qualify for the Arizona Competes Fund.

**Sun Corridor, Inc.:**

Upon signature and acceptance of the proposed contracts by all parties, Sun Corridor will remain actively engaged so as to ensure contract support and compliance as necessary.

**Contract Implementation, Schedule, Timing & Compliance:**

World View anticipates being operational and 'fully moved in' to the new corporate headquarters in approximately November 2016. All jurisdictions will assure their terms and conditions are aligned to ensure that World View customer contracts and requirements are fully met. The World View Point of Contact for Contract Implementation will be Maricela Solis and can be reached directly at 520-850-5967 or [maricela@worldviewexperience.com](mailto:maricela@worldviewexperience.com).

Finally, our team at World View is grateful to the Pima County, all stakeholders and supporters for helping the company decide to stay in Tucson. We look forward to working with you and our community to make southern and northern Arizona a prosperous globally recognized center for the rapidly growing commercial space industry.

To Your Stratospheric Success,

A handwritten signature in blue ink, appearing to read 'Jane Poynter', with a long horizontal line extending to the right.

Jane Poynter  
Chief Executive Officer

## **Exhibit 13**



January 19, 2016

**World View Enterprises, Inc. Corporate Headquarters in the County  
Aerospace, Defense and Technology Research and Business Park**

Introduction

For the last six months, Pima County and Sun Corridor Inc. have been working to retain a startup technology company in Pima County. The codename for the company has been "Project Curvature." The County, City of Tucson, Sun Corridor Inc., and the Arizona Commerce Authority have all cooperated to provide Project Curvature certain economic development benefits to expand their facilities in Pima County. The actual company name is World View Enterprises, Inc., ~~formerly known as Paragon Space Development Corporation.~~

Pima County and the State of Arizona competed with the Florida Space Coast, as well as the State of New Mexico at White Sands. We were notified on December 23, 2015 that World View had accepted the County's incentive proposal, as well as those of the Arizona Commerce Authority and the City of Tucson.

World View – A Space Technology Corporation

World View is a Tucson-based company pioneering the development of suborbital space flight, utilizing proprietary high-altitude balloon technology that offers an accessible, affordable pathway to access near space. World View technology successfully integrates high-altitude balloon technology with parafoil controlled recovery to launch and recover from the same

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geographic area. This makes research, scientific and ultimately tourism flights more affordable, as well as minimizes risk to sensitive research equipment that exists with rocket-powered space flight.

World View has recently successfully negotiated multimillion dollar contracts with the National Aeronautics and Space Administration (NASA) and Northrup Grumman. World View anticipates significant additional demand based on commercial application of their suborbital space technology for tactical communications and surveillance. In addition, untapped potential exists with regard to space tourism.

The World View senior management team consists of Jayne Poynter, Chief Executive Officer and Taber MacCallum, Chief Technology Officer, both founders of Tucson based Paragon Space Development Corporation and members of the first crew to live in Biosphere 2 for two years. Chief Scientist is Dr. Alan Stern, former NASA Associate Administrator for Science, and the Director of Flight Crew Operations is Astronaut Mark Kelly. Their advisory team includes many of the world's leading experts on nearspace science and balloon technology.

World View appears to have a business competitive space advantage to attract additional commercial clients, as well as aerospace and research institutions as the company has demonstrated the ability to a) provide suborbital, orbital, or a stationary instrument platform;b) maintain a sustained presence with continuous observation while far above controlled airspace;

c) deploy quickly with flexible launch locations; and d) minimize deployment costs and recover the payload.

They will also have an advantage in space tourism because of a) non-traumatic launch to the edge of space in a unique eight-person sealed capsule; b) no significant health requirements or special suits; c) less expensive, safer, and gentler alternative; d) the ability to spend hours aloft; and e) gentle, controlled descent.

World View Job Growth Schedule

World View has selected Tucson and Pima County as their world corporate headquarters, and their primary employment base will reside within Pima County. Based on scheduled deliverable contract obligations, World View employment will grow substantially in the next five years. Table 1 below shows the employment growth by year, average wage per year, and average cumulative wage. World View is expected to grow from 24 employees to 448 employees within the next five years and will pay on average 150 percent of the current annual wage in Pima County. These jobs are export-based jobs that have been our priority for job growth as designated in the County adopted Economic Development Plan for 2015 through 2017.

**Table 1: World View Five-year Employment and Wages.**

<b>Year</b>	<b>Number of Employees</b>	<b>Average Annual Wage</b>	<b>Average Wage-Cumulative</b>
2016	24	\$81,667	\$81,667
2017	131	51,636	57,137
2018	298	52,335	54,446



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2019	342	70,455	56,508
2020	448	56,651	56,540

Based on standard economic benefit analysis, Table 2 below shows the economic benefits associated with World View choosing Tucson in Pima County as their world headquarters based on their projected employment growth. **INSERT FROM JOHN MOFFATT. It should be relatively simple and easy to insert into this memorandum.**

**INSERT TABLE 2 HERE**

#### World View Headquarters Site Selection

As stated previously, Pima County has been working with World View for over six months on a proposal to retain them within the region. We have worked very closely with their Real Estate Representative, PICOR, to find a site that would be acceptable to World View. Of all the various sites reviewed, World View has chosen a location within the County's planned Aerospace, Defense and Technology Business and Research Park. The property selected consists of 28 acres adjacent to the newly constructed Aerospace Parkway and south of Raytheon's new main south entry. The County has also coordinated closely with Raytheon to ensure a new user such as World View is compatible with their operations. They have wholeheartedly endorsed the location of World View at the selected site.

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The World View business model is consistent with our tenant goals for the Aerospace, Defense and Technology Business and Research Park. Their international clientele and involvement with a wide range of aerospace companies and the potential to attract suppliers make them a good initial tenant for the Park. World View also stands to be a major contributor to regional tourism with their international investors and client base and will be a high-profile tenant positioned along the Aerospace Parkway. Our property location very near Tucson International Airport is also beneficial for their client and investor base and is expected to contribute to Tucson Airport Authority and Fixed Base Operator revenues.

Facility Improvements Necessary to Retain World View in Pima County

As part of the County offer and incentive for World View, the County has proposed to construct a 120,000 square foot standard steel frame facility to accommodate light manufacturing operations. The facility will include a 15,000 square foot mezzanine within the overall structure for office and support operations, for a total of 135,000 square feet of leasable space. The worksite will include parking and storage, as well as a 700-foot diameter launch pad. The total cost of the new facility – including all permitting fees, fees to be paid to the City of Tucson for transportation impact, payment for fixtures, furniture, equipment that are affixed to the structure – as well as facility construction, is estimated to be \$15 million and will be limited to no more than \$15 million.



In our proposal, the County will finance this facility to be repaid by World View through annual lease and/or rent payments. Annual lease and/or rent payments are identified in Table 3 below and are compared with the County financing of the capital facilities, which will be through a 15-year Certificate of Participation financing agreement. The lease payments from World View will be over a 20-year period, with an option to purchase beginning after Year 11.

**Table 3: Building Financing and Lease Payments.**

Year	Paid by Pima County (at the end of the year)		Lease Rate per square foot	Paid by World View  Lease Payment	Excess (Deficit) of Amounts Paid by World View to Amounts Paid by Pima County	
	Principal	Interest			Period Deficit	Cumulative Deficit
1	\$ 749,116.51	\$ 600,000.00	\$ 5.00	\$ 675,000	(\$674,116.51)	(\$674,116.51)
2	779,081.17	570,035.34	5.00	675,000	(674,116.51)	(1,348,233.01)
3	810,244.41	538,872.09	5.00	675,000	(674,116.51)	(2,022,349.52)
4	842,654.19	506,462.32	5.00	675,000	(674,116.51)	(2,696,466.02)
5	876,360.36	472,756.15	5.00	675,000	(674,116.51)	(3,370,582.53)
6	911,414.77	437,701.73	8.00	1,080,000	(269,116.51)	(3,639,699.03)
7	947,871.36	401,245.14	8.00	1,080,000	(269,116.51)	(3,908,815.54)
8	985,786.22	363,330.29	8.00	1,080,000	(269,116.51)	(4,177,932.04)
9	1,025,217.66	323,898.84	8.00	1,080,000	(269,116.51)	(4,447,048.55)
10	1,066,226.37	282,890.13	8.00	1,080,000	(269,116.51)	(4,716,165.06)
11	1,108,875.43	240,241.08	10.00	1,350,000	883.49	(4,715,281.56)
12	1,153,230.44	195,886.06	10.00	1,350,000	883.49	(4,714,398.07)
13	1,199,359.66	149,756.84	10.00	1,350,000	883.49	(4,713,514.57)
14	1,247,334.05	101,782.46	10.00	1,350,000	883.49	(4,712,631.08)
15	1,297,227.41	51,889.10	10.00	1,350,000	883.49	(4,711,747.58)
16			12.00	1,620,000	1,620,000.00	(3,091,747.58)
17			12.00	1,620,000	1,620,000.00	(1,471,747.58)
18			12.00	1,620,000	1,620,000.00	148,252.42
19			12.00	1,620,000	1,620,000.00	1,768,252.42

**Table 3: Building Financing and Lease Payments.**

Year	Paid by Pima County (at the end of the year)		Lease Rate per square foot	Paid by World View	Excess (Deficit) of Amounts Paid by World View to Amounts Paid by Pima County	
	Principal	Interest		Lease Payment	Period Deficit	Cumulative Deficit
20			12.00	1,620,000	1,620,000.00	3,388,252.42
	\$15,000,000.00	\$5,236,747.58		\$23,625,000	\$3,388,252.42	

The financing and rent is based on an assumed financing interest rate of four percent. By cursory examination of Table 3 above, the County is front-ending the capitalization of the building and facilities and fully recovering our investment, with an excess payment of nearly \$3.4 million over a 20-year lease period. The option to purchase will include a requirement that should World View opt to purchase the building in Year 11, the accumulated deficit in our advancement of principal and interest payments must be fully repaid with interest over the period we have incurred a deficit at the stated long-term government investment pool rate. This is the interest rate the County would have received on all funds, such as the fund balance or other funds reserved for purposes other than annual expenditure. In essence, the County is being made financially whole regardless of the option selected by World View; either an early lease purchase or a full-term 20-year lease. Included in the \$15 million is not only the capital construction to build the facility, but all fees paid to the City and the County. Notable fee payments from this \$15 million are (LIST THEM – get them from the other table)



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In addition, the County has assigned a market value of the land being purchased through the possible lease/purchase of this site at \$60,000 per acre, which compares to the initial purchase price of the property of \$13,000 per acre. Hence, amplifying the economic benefits associated with the County's acquisition of these lands to ensure future commercial and industrial users that are compatible with Raytheon operations.

#### Development of Pima County Space Port

Of the 28 acres being occupied for World View expansion, 11 acres is dedicated to the manufacturing, assembly and administrative building of 135,000 square feet, plus site parking and an area for future building expansion. Seventeen acres are being set aside for a 700-foot diameter concrete launch pad. The World View building and manufacturing site will be under exclusive lease for World View uses only. The launch pad will be leased to World View for their purposes of vehicle launch, and they will have priority use of the launch pad. The launch pad will remain a public asset and be available for other commercial near-space or stratospheric uses consistent with Federal Aviation Administration (FAA) regulations and under the control of FAA Air Traffic Control. The cost of the launch pad will be paid largely by an Arizona Commerce Authority grant and ultimately repaid through funding from the Aviation Division of the Arizona Department of Transportation. Without grant funding, an optional 450-foot asphalt launch pad is planned; however, the 700-foot launch pad is being planned as we solidify grant offers for its construction. The launch pad would qualify the site as a space port similar to other designations in other states that are home to space industry operations.



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#### Selection of Project Architect and Contractor

During the recruitment process to offer World View facilities in Pima County, it was necessary to quantify their exact architectural program and space needs, as well as provide them with a reliable cost estimate for building construction. The County initially selected Swaim Associates Ltd Architects AIA, with Mr. Phil Swaim as the Lead Architect, and Barker Morrissey Contracting with Mr. Riley Rasmussen as the Project Manager. These two firms provided services without compensation to provide the necessary architectural programming and design and cost models to determine the reliable size configuration and cost of constructing World View's headquarters in Pima County. Because of their prior involvement and detailed understanding of World View requirements, the County will now select Swaim Associates as the Project Architect and Barker Morrissey Contracting as the Contractor using **discuss selection/contracting method (to be completed by the Procurement Director with the appropriate justification for doing so)**

#### Arizona, Pima County and Tucson Achieve Space Port Designation

Throughout the United States (US) there are a limited number of states that have any major entry into space technology. On a map of the US showing states that have entered the space technology industry, Arizona is noticeably absent. Adding the World View facility and the 700-foot diameter space port launch pad makes Arizona, Pima County and Tucson viable competitors in the space technology industry.

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Recommendation

Respectfully submitted,

C.H. Huckelberry  
County Administrator

CHH/lab – **ISSUE DATE**  
Attachment

## **Exhibit 14**



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# Board of Supervisors Memorandum

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January 19, 2016

**World View Enterprises, Inc. Corporate Headquarters in the County  
Aerospace, Defense and Technology Research and Business Park**

## Introduction

For the last six months, Pima County and Sun Corridor Inc. have been working to retain a technology company in Pima County. The codename for the company has been "Project Curvature." The County, City of Tucson, Sun Corridor Inc., and the Arizona Commerce Authority have all cooperated to provide Project Curvature certain economic development benefits to expand their facilities in Pima County (Attachment 1). The company name is World View Enterprises, Inc. The entrepreneurs that established World View previously launched another successful space research company in Pima County known as Paragon Space Development Corporation.

Pima County and the State of Arizona competed with the Florida Space Coast, as well as the State of New Mexico's Space Port America near White Sands. In the Florida case, Enterprise Florida assembled a package that included building and equipment financing, attractive lease rates, tax refunds and property tax abatements. New Mexico offered similar incentives and also included a substantial expenditure from their "deal closing" funds. Both locations had existing space ports with little need by the company or the jurisdiction to build additional resources or infrastructure.

There were advantages for World View to remain in southern Arizona and avoid moving costs, but the gap between the offer assembled by Sun Corridor Inc. and the economic development organizations in Florida and New Mexico was still in the \$15 to \$20 million range. For World View to retain their small but steadily growing operation in Tucson, the State and local governments needed to provide additional resources and incentives to keep the company from relocating.

We were notified on December 23, 2015 that World View had accepted the County's incentive proposal, as well as those of the Arizona Commerce Authority and the City of Tucson (Attachment 2). World View's acceptance of Pima County's proposal was contingent upon the County making its best efforts to deliver the manufacturing site by November 2016.

## World View – A Space Technology Corporation

World View is a Tucson-based company pioneering the development of suborbital space flight, utilizing proprietary high-altitude balloon technology with parafoil controlled recovery

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Re: **World View Enterprises, Inc. Corporate Headquarters in the County Aerospace, Defense  
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to launch and recover from the same geographic area. This makes research, scientific and ultimately tourism flights more affordable, as well as minimizes risk to sensitive research equipment that exists with rocket-powered space flight and recovery.

World View has recently successfully negotiated multimillion dollar contracts with the National Aeronautics and Space Administration (NASA) and Northrop Grumman. World View anticipates significant additional demand based on commercial application of their suborbital space technology for tactical communications and surveillance. In addition, untapped potential exists with regard to space tourism.

The World View senior management team consists of Jane Poynter, Chief Executive Officer and Taber MacCallum, Chief Technology Officer; both founders of Tucson based Paragon Space Development Corporation and members of the first crew to live in Biosphere 2 for two years. Chief Scientist is Dr. Alan Stern, former NASA Associate Administrator for Science, and the Director of Flight Crew Operations is Astronaut Mark Kelly. Their advisory team includes many of the world's leading experts on nearspace science and balloon technology.

World View appears to have a business competitive space advantage to attract additional commercial clients, as well as aerospace and research institutions as the company has demonstrated the ability to a) provide suborbital, orbital, or a stationary instrument platform; b) maintain a sustained presence with continuous observation while far above controlled airspace; c) deploy quickly with flexible launch locations; and d) minimize deployment costs and recover the payload.

They will also have an advantage in space tourism because of a) non-traumatic launch to the edge of space in a unique eight-person sealed capsule; b) no significant health requirements or special suits; c) less expensive, safer, and gentler alternative; d) the ability to spend hours aloft; and e) gentle, controlled descent.

#### World View Job Growth Schedule

World View has selected Tucson and Pima County as their world corporate headquarters, and their primary employment base will reside within Pima County. Based on scheduled deliverable contract obligations, World View employment will grow substantially in the next five years. World View is expected to grow from over 25 employees to over 400 employees within the next five years and will pay on average \$55,000 per year, or 150 percent of the current annual wage in Pima County. These jobs are export-based jobs that have been our priority for job growth as designated in the County adopted Economic Development Plan for 2015 through 2017.

### Economic and Revenue Impacts of the Project

Pima County, through its partnership with Sun Corridor Inc., requested an independent, third-party analysis of the economic and revenue impacts of World View's proposed operation. The analysis, conducted by Phoenix-based Applied Economics, estimated the total economic impact of World View's operations at approximately \$3.5 billion over the next 20 years.

Including the previously noted 400-plus direct jobs created by World View, the company's operations would directly and indirectly support a total of 840 jobs created in Pima County and generate an estimated \$38.7 million in annual personal income in our region. The 400-plus direct jobs expected to be employed by World View in 2020 would result in an annual payroll of in excess of \$25.3 million; and the additional 400 indirect jobs created in Pima County businesses would support an estimated \$13.5 million in payroll during that same time period. Construction of the new facility is expected to create 100 new direct construction jobs and 50 indirect jobs in Pima County and generate an estimated \$13.5 million in new construction activity. This would result in a one-time economic impact to our region of an estimated \$19.5 million.

In addition to its important stimulus of the local economy, World View's operations would also provide significant tax revenues to local governments during the 20-year period analyzed by Applied Economics. The direct and indirect revenue impacts to Pima County alone are estimated at \$10.7 million, with additional revenue for the City of Tucson, Regional Transportation Authority, Pima Community College and Sunnyside Unified School District.

Applied Economics' analysis concluded that World View's operation would provide significant economic development benefits for Pima County and create a large number of high paying jobs for our region. The complete economic and revenue analysis is Attachment 3 to this memorandum.

### World View Headquarters Site Selection

As stated previously, Pima County has been working with World View for over six months on a proposal to retain them within the region. We have worked very closely with their Real Estate Representative, PICOR, to find a site that would be acceptable to World View. Of all the various sites reviewed, World View has chosen a location within the County's planned Aerospace, Defense and Technology Business and Research Park. The property

selected consists of 28 acres adjacent to the newly constructed Aerospace Parkway and south of Raytheon's new main south entry. The County has coordinated closely with Raytheon to ensure a new user such as World View is compatible with their operations. They have wholeheartedly endorsed the location of World View at the selected site. World View has had multiple discussions with the Air Traffic Control branch of the Federal Aviation Administration regarding the suitability of this site for launch operations.

The World View business model is consistent with our tenant goals for the Aerospace, Defense and Technology Business and Research Park. Their international clientele and involvement with a wide range of aerospace companies and the potential to attract suppliers make them a good initial tenant for the Park. World View also stands to be a major contributor to regional tourism with their international investors and client base and will be a high-profile tenant positioned along the Aerospace Parkway. Our property location very near Tucson International Airport is also beneficial for their client and investor base and is expected to contribute to Tucson Airport Authority and Fixed Base Operator revenues.

#### Facility Improvements Necessary to Retain World View in Pima County

As part of the County offer and incentive for World View, the County has proposed to construct a 120,000 square foot standard steel frame facility to accommodate light manufacturing operations on approximately 12 acres. The facility will include a 15,000 square foot mezzanine within the overall structure for office and support operations, for a total of 135,000 square feet of leasable space. The worksite will include parking and storage, as well as a 700-foot diameter launch pad. The total cost of the new facility – including all permitting fees, fees to be paid to the City of Tucson for transportation impact, payment for fixtures, furniture, equipment that are affixed to the structure – as well as facility construction, is estimated to be \$15 million and will be limited to no more than \$15 million – \$14.5 million for the manufacturing and administrative building and \$500,000 for the space port.

In our proposal, the County will finance this facility to be repaid by World View through annual lease and/or rent payments. The Lease/Purchase Agreement and legal description are Attachment 4 to this memorandum. Annual lease and/or rent payments are identified in Table 1 below and are compared with the County financing of the capital facilities, which will be through a 15-year Certificate of Participation financing agreement. The lease payments from World View will be over a 20-year period, with an option to purchase.

**Table 1: Building Financing and Lease Payments.**

Year	Paid by Pima County (at the end of the year)		Lease Rate per square foot	Paid by World View	Excess (Deficit) of Amounts Paid by World View to Amounts Paid by Pima County	
	Principal	Interest		Lease Payment	Period Deficit	Cumulative Deficit
1	\$ 749,116.51	\$ 600,000.00	\$ 5.00	\$ 675,000	(\$674,116.51)	(\$674,116.51)
2	779,081.17	570,035.34	5.00	675,000	(674,116.51)	(1,348,233.01)
3	810,244.41	538,872.09	5.00	675,000	(674,116.51)	(2,022,349.52)
4	842,654.19	506,462.32	5.00	675,000	(674,116.51)	(2,696,466.02)
5	876,360.36	472,756.15	5.00	675,000	(674,116.51)	(3,370,582.53)
6	911,414.77	437,701.73	8.00	1,080,000	(269,116.51)	(3,639,699.03)
7	947,871.36	401,245.14	8.00	1,080,000	(269,116.51)	(3,908,815.54)
8	985,786.22	363,330.29	8.00	1,080,000	(269,116.51)	(4,177,932.04)
9	1,025,217.66	323,898.84	8.00	1,080,000	(269,116.51)	(4,447,048.55)
10	1,066,226.37	282,890.13	8.00	1,080,000	(269,116.51)	(4,716,165.06)
11	1,108,875.43	240,241.08	10.00	1,350,000	883.49	(4,715,281.56)
12	1,153,230.44	195,886.06	10.00	1,350,000	883.49	(4,714,398.07)
13	1,199,359.66	149,756.84	10.00	1,350,000	883.49	(4,713,514.57)
14	1,247,334.05	101,782.46	10.00	1,350,000	883.49	(4,712,631.08)
15	1,297,227.41	51,889.10	10.00	1,350,000	883.49	(4,711,747.58)
16			12.00	1,620,000	1,620,000.00	(3,091,747.58)
17			12.00	1,620,000	1,620,000.00	(1,471,747.58)
18			12.00	1,620,000	1,620,000.00	148,252.42
19			12.00	1,620,000	1,620,000.00	1,768,252.42
20			12.00	1,620,000	1,620,000.00	3,388,252.42
	\$15,000,000.00	\$5,236,747.58		\$23,625,000	\$3,388,252.42	

The financing and rent is based on an assumed financing interest rate of four percent. By cursory examination of Table 1 above, the County is front-ending the capitalization of the building and facilities and fully recovering our investment, with an excess payment of nearly \$3.4 million over a 20-year lease period. The option to purchase between Years 10 and 17 will include a requirement that should World View opt to purchase the building, the accumulated deficit in our advancement of principal and interest payments must be fully repaid with interest over the period we have incurred a deficit at the stated long-term government investment pool rate. This is the interest rate the County would have received



on all funds, such as the fund balance or other funds reserved for purposes other than annual expenditure. In essence, the County is being made financially whole regardless of the option selected by World View; an early lease purchase or a full-term 20-year lease. Included in the \$15 million is not only the capital construction to build the facility, but all fees paid to the City and the County. Notable conceptual fee payments from this \$15 million are shown in Table 2 below. These estimates are relatively accurate but may vary.

**Table 2: World View Headquarters Fee Payments.**

<b>Description</b>	<b>Amount</b>
Wastewater Connection Fees	\$ 27,030
Water Connection Fee	10,600
Building/Site Development Permit Fees	446,000
Southland Impact Fees	566,370
<b>Total</b>	<b>\$1,050,000</b>

The building/site development permit fees will be paid to the County's Development Services Department. The Southland Impact Fees will be paid to the City of Tucson. The City Manager has committed these fees to the transportation facilities in the Sonoran Corridor.

In addition, the County has assigned a market value of the land being purchased through the possible lease/purchase of this site at approximately \$37,000 per acre, which compares to the initial purchase price of the property of \$16,000 per acre. Hence, amplifying the economic benefits associated with the County's acquisition of these lands to ensure future commercial and industrial users that are compatible with Raytheon operations.

#### Development of Pima County SpacePort Tucson

Of the 28 acres being occupied for World View expansion, 12 acres are dedicated to the manufacturing, assembly and administrative building of 135,000 square feet, plus site parking and an area for future building expansion. Sixteen acres are being set aside for a 700-foot diameter concrete launch pad. The World View building and manufacturing site will be under an operating agreement for World View uses. The launch pad will be used by World View for their purposes of vehicle launch, and they will have priority use of the launch pad. The SpacePort Operating Agreement and legal description are Attachment 5 to this memorandum. The launch pad will remain a public asset and be available for other commercial near-space or stratospheric uses consistent with Federal Aviation Administration (FAA) regulations and under the control of FAA Air Traffic Control. The process for federal spaceport approval has been initiated.

A 450-foot asphalt launch pad was originally planned; however, an optional 700-foot launch pad is desired. The County will prioritize development of the 700-foot diameter launch pad, and we intend to pursue grant opportunities to construct this larger launch pad. A larger pad will significantly increase the user base; not only for balloon flight operations, but also for the ability to launch and recover a variety of experimental vehicles. Likely most significant for World View is that the larger pad accommodates heavy-lift launches and human flights, which the smaller pad would not. A large, flat, protected and secured area is difficult to find, especially one that can be scheduled for use over periods of days and has utilities. The larger launch pad will be an asset to the Aerospace Park and southern Arizona in general, since the launch pad would qualify the site as a spaceport similar to other designations in other states that are home to space industry operations.

#### Selection of Project Architect and Contractor

During the recruitment process to offer World View facilities in Pima County, it was necessary to quantify their exact architectural program and space needs, as well as provide them with a reliable cost estimate for building construction. The County initially selected Swaim Associates, Ltd. Architects, AIA, with Principal Phil Swaim as the Lead Architect. Swaim Associates is the firm that provided architectural services for the integrated medical facilities at The University of Arizona, which included complex laboratory, aerospace and science facilities. The architectural services required by World View are closely aligned and technically similar to the work performed by Swaim for the University.

Barker Morrissey was selected during the proposal development process, since the firm has significant complementary project experience to that required by World View. Such projects include a two-phase new construction and renovation for Texas Instruments comprised of laboratory (including Class 1000 clean room space) and research and development space, as well as office space. Barker Morrissey also completed a 65,000 square foot research and development facility for Sion Power and a 60,000 square foot medical logistics and distribution center in the Marana area.

These two firms provided months of substantial services without compensation to provide the necessary architectural programming and design and cost models to determine the reliable size, configuration and cost of constructing World View's headquarters in Pima County.

Given the required facility delivery date of November 2016 and because of their prior involvement and detailed understanding of World View requirements, the County will now select Swaim Associates, Ltd. as the Project Architect and Barker Morrissey Contracting as the Contractor using the authority granted under A.R.S. § 34-606 Emergency Procurement and Section 11.12.060 of the Pima County Procurement Code, whereby the County has

determined that due to the compressed timeframe for design and construction of this facility, compliance with the full provisions of the statute is impracticable and contrary to the public interest . It has been determined the most expedient contract methodology for delivery of the facility is award of the Architectural Design Contract to Swaim Associates, Ltd. and a Construction Manager at Risk Contract to Barker Morrissey Contracting, Inc. for phased construction with multiple Guaranteed Maximum Price proposals as the project design progresses.

#### Arizona, Pima County and Tucson Achieve SpacePort Designation

Throughout the United States (US) there are a limited number of states that have any major entry into space technology. On a map of the US showing states that have entered the space technology industry, Arizona is noticeably absent (Attachment 6). Adding the World View facility and the 700-foot diameter spaceport launch pad makes Arizona, Pima County and Tucson viable competitors in the space technology industry. The facility will be named "SpacePort Tucson."

#### Recommendation

I recommend the Board of Supervisors take the following actions:

1. Approve the Lease/Purchase Agreement, including the Purchase Option, between Pima County and World View Enterprises, Inc. for the development of their manufacturing and administrative headquarters in the Aerospace, Defense and Technology Business and Research Park. The Lease/Purchase Agreement contains a provision for a separate first right of refusal purchase option for six acres immediately west of World View's manufacturing and administration complex for future expansion.
2. Approve the issuance of Certificates of Participation in an amount not to exceed \$15 million for the development, design, and construction of the World View Enterprises, Inc. manufacturing and administrative headquarters.
3. Approve the SpacePort Operating Agreement related to World View's operation of the spaceport on behalf of Pima County and authorize all necessary actions of the County to apply for a space port license and approval from the Federal Aviation Administration, as well as a construction-in-aid grant from the Aeronautic Division of the Arizona Department of Transportation to supplement County funding for construction of the spaceport.
4. Make the following awards:

The Honorable Chair and Members, Pima County Board of Supervisors  
Re: **World View Enterprises, Inc. Corporate Headquarters in the County Aerospace, Defense  
and Technology Research and Business Park**  
January 19, 2016  
Page 9

A. Swaim Associates, Ltd. Architects, AIA (Headquarters: Tucson, Arizona); Not to Exceed \$850,000, including a \$50,000 contingency; Contract term January 19, 2016 through February 28, 2017; for Architectural and Engineering Design Services.

B. Barker Morrissey Contracting, Inc. (Headquarters: Tucson, Arizona); Not to Exceed \$12,400,000, including attached fixtures and equipment and an \$800,000 Contingency; Contract term January 19, 2016 through February 28, 2017; for Construction Manager at Risk Services for both preconstruction and construction services.

The County will pay all fees now estimated at approximately \$1,050,000, as well as nongovernmental utility extensions estimated at \$700,000.

In order to expedite construction under these contracts, the Board of Supervisors approves the Procurement Director to execute any and all contracts, amendments and change orders to the contracts listed above within the dollar and term limits awarded by this action. Any amendment or change order resulting in a contract value or term in excess of the Board award will be submitted to the Board for approval.

Respectfully submitted,



C.H. Huckelberry  
County Administrator

CHH/mjk – January 13, 2016

Attachments

## **Exhibit 15**



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# MEMORANDUM

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Date: May 4, 2016

To: The Honorable Chair and Members  
Pima County Board of Supervisors

From: C.H. Huckelberry  
County Administrator

A handwritten signature in dark ink, appearing to be "CH", is written over the printed name "C.H. Huckelberry".

Re: **Goldwater Institute Lawsuit Related to World View Enterprises**

Today, the County filed the attached Motion to Dismiss the Goldwater Institute's lawsuit against the County related to our economic development incentives for World View Enterprises. The County will continue to aggressively defend against this biased and ill-founded litigation, and we expect to prevail.

Continuing research into the Goldwater Institute's litigation against Pima County has a clear bias against southern Arizona. This bias is evident when comparing similar recent economic development incentives provided to metropolitan Phoenix businesses by the Cities of Mesa and Scottsdale and the Town of Gilbert, as well as Senate Bill (SB) 1531, the recent proposal by the Arizona Legislature to use the State's credit to guarantee loans made to private, for-profit charter schools.

The following are examples of creative economic-development transactions that the biased, Phoenix-centric Goldwater Institute ignored in favor of targeting Pima County:

- City of Mesa. The City of Mesa constructed a manufacturing facility for Able Engineering at the Mesa Gateway Airport. The facility cost approximately \$20 million, and the City of Mesa will only recover its cost through a lease agreement with Able Engineering on a for-profit manufacturing facility.

Able Engineering is not dissimilar from World View, as Able was a small aerospace manufacturer needing to expand. The City of Mesa provided the capital to construct Able's new facility and will recover the cost through a 20-year lease/purchase. This arrangement is virtually identical to the arrangement Pima County has with World View.

The Goldwater Institute filed no litigation against the City of Mesa.

- City of Scottsdale. The City of Scottsdale is building two hangars and an aero-business center for Gemini Air Group, a private, for-profit corporation. The City will construct and finance the facilities costing in excess of \$25 million and will recover this cost through a lease with Gemini. Scottsdale's own financial

analysis indicates they will recover only \$2.7 million above the total principal and interest cost to construct the facilities, which will be approximately \$36.8 million. The City staff presentation to the Scottsdale Mayor and Council shows the lease revenues that offset the City's principal and interest costs; approximately \$22 million for hangar rent recovery and over \$13.8 million in "miscellaneous revenues." Relying on such a large percentage (38 percent) of cost recovery from miscellaneous revenues indicates there is some risk that revenues will not always cover the City's debt service.

The Goldwater Institute criticizes the World View venture as "a plaything for the rich." It should be noted the primary business of the Gimini Air Group leasing the Scottsdale Facility is to provide luxury Canadian charter air service.

The Goldwater Institute filed no litigation against the City of Scottsdale.

- **Town of Gilbert.** In 2015, the Town of Gilbert designed and constructed a four-year liberal arts campus for the private Saint Xavier University, which opened a branch academic center on Town-owned property. The cost of developing the 87,000 square foot, four-story building was \$35 million. This campus was paid for and financed by the Town of Gilbert, and the campus facilities are leased to the University. The stated economic development benefits of this proposal were primarily related to attracting a university and students – not jobs – and certainly not export-based employment paying 150 percent over the median wage, as is the case with World View. As noted, Gilbert financed this campus for Saint Xavier University by issuing revenue bonds that are expected to be repaid by the university through its lease payments. An economic analysis conducted for the project estimates the university will employ only 65 people by 2020. At the November 13, 2013 meeting in which the Gilbert Mayor and Council approved the development agreement for the project, Town staff acknowledged that the scope of the furniture, fixtures and equipment; onsite improvements and offsite improvements were unknown at the time of approval.

The Goldwater Institute filed no litigation against the Town of Gilbert.

In the above three cases, all of the economic development benefits are centered in the Phoenix metropolitan area. No objections were raised by the Goldwater Institute for these economic development incentive packages involving significant sums of money, greater than the Pima County expenditure for World View. All of these metropolitan Phoenix cases are based on the assumption that costs will be recovered over a 20-year lease/purchase – similar to the County's lease-purchase arrangement with World View.

The Goldwater Institute claims the County relied inappropriately on the "emergency" procurement component of A.R.S. § 34-606. But that statute is not actually limited to "emergency" situations involving threats to public health and safety; it *also* allows a public entity to dispense with normal procurement procedures *"if a situation exists that makes compliance with this title impractical, unnecessary or contrary to the public interest."* The Board of Supervisors made a finding that the need to deliver a manufacturing site by November 2016, in order to retain World View, created a situation that made compliance with Title 34 impractical and contrary to the public interest, as the economic development opportunity would otherwise have been lost for Pima County.

The Goldwater Institute uses the term "competitive bidding." This implies a strictly monetary-based selection process. It should be noted, however, that Title 34 allows for qualifications-based procurement of professional architectural services and construction-manager-at-risk services. A.R.S. § 34-603 states that the contract shall be made on the *"basis of demonstrated competence and qualifications"* and that the agency procuring the services *"shall not request or consider fees, price, man hours or any other cost information."* The statute goes on to state that *"[a]ll selection criteria...shall be factors that demonstrate competence and qualifications for the type of professional services or construction services included in the procurement."*

Hence, in any competitive process the County would have initiated in lieu of the manner in which we procured these services, it is likely that both the architect, Swaim and Associates, and the contractor, Barker Morrissey, would have been selected given their prior uncompensated work helping to define the size, scope and extent of the facility required by World View.

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The Honorable Chair and Members, Pima County Board of Supervisors  
Re: **Goldwater Institute Lawsuit Related to World View Enterprises**  
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- Lending the State's Credit by Legislative Act to Private For-profit Charter Schools. The Goldwater Institute has also been conspicuously silent on SB 1531, which is basically the State's "loaning of credit" to private charter schools. SB 1531 would set aside \$100 million in State funds to guarantee repayment of loans made to private charter schools; schools that are permitted by law to operate as for-profit entities. The State, as guarantor of these loans, guarantees payment of the debt if the borrowing entity defaults. The only "protections and remedies" the State receives "in exchange" is the same right any guarantor has (see Page 6 of HB 1531, § 15-2156(D)): (1) the right to recover the advanced funds from the defaulting borrower, which generally is not worth much by the time there has been a default; and (2) the right to be repaid from the proceeds of a foreclosure sale of any property securing the loan, in the unlikely event any such proceeds remain after the lender is paid off.

In addition, although SB 1531 has been characterized by the State as giving schools "the ability to expand so that they can offer a great education to more students," it does not require that the borrowed funds be used to build new educational facilities.

The Goldwater Institute has not threatened litigation against the State if SB 1531 is signed into law.

Based on these few examples, it would appear the Goldwater Institute believes economic development incentives are appropriate and reasonable in the Phoenix metropolitan area, but Constitutional violations in the other 14 Arizona counties.

CHH/mjk

Attachment

c: Tom Weaver, Chief Civil Deputy County Attorney  
Regina Nassen, Deputy County Attorney  
Andrew Flagg, Deputy County Attorney  
Dr. John Moffatt, Director, Office of Strategic Planning